

**In The Matter Of:**  
*Stacy L. Randall v.*  
*Reed C. Widen, et al.*

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*Video Deposition of Matthew R. Gonnering*  
*September 21, 2023*

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<p style="text-align: center;">UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WISCONSIN</p> <hr/> <p>STACY L. RANDALL,  Plaintiff,  -vs- Case No. 3:22-cv-00400-jdp  REED C. WIDEN, MICHAEL KIESLER,  WIDEN ENTERPRISES, LLC, and  WINDY WATERS, INC.,  Defendants.</p> <hr/> <p style="text-align: center;">Video Deposition of MATTHEW R. GONNERING, taken at the instance of the Plaintiff, under and pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, before Kaila M. Macek, RMR, CRR, a Notary Public in and for the State of Wisconsin, at O'Neil, Cannon, Hollman, DeJong &amp; Laing S.C., 111 East Wisconsin Avenue, Suite 1400, Milwaukee, Wisconsin, on September 21, 2023, commencing at 9:05 a.m. and concluding at 6:06 p.m.</p>	<p style="text-align: right;"><b>Page 3</b></p> <p>1 Exhibits Identified: Page</p> <p>2 Exhibit 1 Widen Enterprises Business Plan 28</p> <p>3 Exhibit 2 Confidential Information Memorandum 52</p> <p>4 Exhibit 3 Slack message 4/12/19 128</p> <p>5 Exhibit 4 Slack message 10/16/19 139</p> <p>6 Exhibit 5 Slack message 10/22/19 150</p> <p>7 Exhibit 6 Email dated 11/22/19 157</p> <p>8 Exhibit 7 Email dated 7/3/20 171</p> <p>9 Exhibit 8 Email dated 12/1/14 180</p> <p>10 Exhibit 9 Email dated 2/23/18 191</p> <p>11 Exhibit 10 Email dated 8/10/18 198</p> <p>12 Exhibit 11 Email dated 4/10/20 209</p> <p>13 Exhibit 12 Email dated 5/8/20 219</p> <p>14 Exhibit 13 Slack message dated 5/14/20 243</p> <p>15 Exhibit 14 Grant Thornton Quality of Earnings Study 256</p> <p>16</p> <p>17 Exhibit 15 Email dated 8/26/20 277</p> <p>18 Exhibit 16 Email dated 5/22/20 284</p> <p>19 Exhibit 17 Grant Thornton Engagement Letter 289</p> <p>20 for Advisory Services</p> <p>21 (The original exhibits were attached to the original transcript, and copies were provided to counsel)</p> <p>22</p> <p>23</p> <p>24 (The original transcript was filed with Attorney David G. Palay)</p> <p>25</p>
<p style="text-align: center;"><b>Page 2</b></p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 REINHART BOERNER VAN DEUREN s.c., by</p> <p>4 MR. DAVID G. PALAY,</p> <p>5 MS. MONICA A. MARK,</p> <p>6 MR. MARK A. CAMELI,</p> <p>7 1000 North Water Street, Suite 1700</p> <p>8 Milwaukee, Wisconsin 53202</p> <p>9 appeared on behalf of the Plaintiff.</p> <p>10</p> <p>11 HOLLAND &amp; KNIGHT LLP, by</p> <p>12 MR. MARK H. CHURCHILL,</p> <p>13 1650 Tysons Boulevard, Suite 1700,</p> <p>14 Tysons, Virginia 22102,</p> <p>15 appeared on behalf of the Defendants.</p> <p>16</p> <p>17 O'NEIL, CANNON, HOLLMAN, DeJONG &amp; LAING S.C., by</p> <p>18 MR. DEAN P. LAING,</p> <p>19 111 East Wisconsin Avenue, Suite 1400,</p> <p>20 Milwaukee, Wisconsin 53202,</p> <p>21 appeared on behalf of the Defendants.</p> <p>22 Also present: Jay Church, Videographer</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">I N D E X</p> <p>17 Examination: Page</p> <p>18 By Mr. Palay 5</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;"><b>Page 4</b></p> <p>1 THE VIDEOGRAPHER: Good morning.</p> <p>2 We're going on the record. The time is</p> <p>3 9:05 a.m. Today is September 21st, 2023.</p> <p>4 This is media unit number one of the video</p> <p>5 recorded deposition of Matthew Gonnering.</p> <p>6 This is in the matter of Stacy Randall</p> <p>7 versus Reed Widen, et al. The case is filed</p> <p>8 in the U.S. District Court, Western Direct of</p> <p>9 Wisconsin. Case number 3:22-cv-00400-jdp.</p> <p>10 The deposition is taking place at</p> <p>11 111 East Wisconsin Avenue. That's in</p> <p>12 Milwaukee, Wisconsin. My name is Jay Church.</p> <p>13 I'm the videographer today.</p> <p>14 If we could have counsel please state</p> <p>15 your appearances and affiliation for the</p> <p>16 record, and then our court reporter will</p> <p>17 swear in the witness.</p> <p>18 MR. PALAY: David Palay from</p> <p>19 Reinhart Boerner Van Deuren on behalf of</p> <p>20 Stacy Randall, and with me today are my</p> <p>21 colleagues Monica Mark and Mark Cameli.</p> <p>22 MR. CHURCHILL: Mark Churchill on</p> <p>23 behalf of Widen Enterprises and the</p> <p>24 defendants from Holland &amp; Knight, and with me</p> <p>25 is Dean Laing of O'Neil Cannon.</p>

<p style="text-align: right;">Page 5</p> <p>1 MATTHEW R. GONNERING, called as a 2 witness, being first duly sworn, testified on 3 oath as follows: 4 EXAMINATION 5 BY MR. PALAY: 6 Q Good morning, Mr. Gonnering. I just introduced 7 myself, but my name is David, and we've actually 8 met in some other contexts before, so you know 9 that. And as I said, I represent Stacy Randall in 10 this case. And the defendants in the case are 11 Reed Widen, Michael Kiesler, who you know; 12 correct? 13 A Correct. 14 Q And two companies, Windy Waters, Inc., and Widen 15 Enterprises, LLC. You understand that? 16 A I do. 17 Q I'll refer to that group as the defendants 18 sometimes. So you'll understand if I refer to the 19 defendants, I'm referring to Reed, Michael 20 Kiesler, Windy Waters, and Widen Enterprises? 21 A Okay. 22 Q Now, you're not a party to this case in your 23 individual capacity; right? 24 A Correct. 25 Q But as we'll talk about later, you are and have</p>	<p style="text-align: right;">Page 7</p> <p>1 understood it. Is that fair? 2 A Yep. 3 Q And we're on video, but there's also a court 4 reporter taking down what we say. So it's 5 important that we give audible answers to things. 6 So, you know, normally you might uh-huh or uh-uh 7 or nod, but here we have to kind of say yes, no. 8 Understood? 9 A Understood. 10 Q Is there any reason that you couldn't give 11 truthful and complete answers to questions this 12 morning? 13 A No. 14 Q Okay. How did you originally learn about this 15 deposition? 16 A I was asked to participate in the deposition I 17 believe from Holland &amp; Knight, from our attorneys. 18 Q Okay. And did you do anything to prepare for this 19 deposition? 20 A I did. 21 Q What did you do? 22 A I met with my attorneys. 23 Q Okay. And did you communicate with anyone else 24 about the deposition other than your attorneys? 25 A I communicated with my wife.</p>
<p style="text-align: right;">Page 6</p> <p>1 been employed by Widen Enterprises in the past; 2 right? 3 A Correct. 4 Q And presently; correct? 5 A Correct. Employed by Acquia presently. 6 Q Oh, thank you. And we'll talk about it, but 7 Acquia now owns Widen Enterprises? 8 A Correct. 9 Q Okay. And so Widen Enterprises and the 10 defendant's attorneys are representing you in that 11 capacity as a witness of Acquia; is that your 12 understanding? 13 A My understanding is they're, yeah, representing 14 Matthew Gonnering and my presence here today. 15 Yeah. 16 Q Okay. Have you ever been deposed before? 17 A I have not. 18 Q Okay. I'm sure you've seen it on TV. It's not 19 too complicated. But I'll just go over some 20 ground rules to make it smooth. Basically I'll 21 ask you questions and you'll answer them to the 22 best of your ability. If you don't understand a 23 question, just let me know. I don't want you to 24 tell me anything you don't understand. But if you 25 do answer a question, I'll assume that you</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Okay. 2 A And my employer. 3 Q Okay. Who at your employer did you communicate 4 with? 5 A General counsel Jason Wagstaff. 6 Q Did you review any documents in preparation for 7 the deposition? 8 A I did. 9 Q Okay. Which documents? 10 A A variety of documents. 11 Q Okay. Like which ones? 12 A There was a lot. Operational updates, things that 13 I've written historically. 14 Q Anything else? 15 A The shareholder agreement that I signed. And 16 that's -- that's what I recall. 17 Q Did you make any notes in preparing for the 18 deposition? 19 A I did not. 20 Q And you understand that Reed and Michael Kiesler 21 have given depositions in this case already? 22 A I do. 23 Q Have you discussed their depositions with them at 24 all? 25 A No.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 9	Page 11
<p>1 Q Okay. Did you discuss this deposition with either 2 of those two? 3 A No. 4 Q And you didn't -- did you review any of the 5 transcripts of their depositions? 6 A I reviewed Reed's transcript. Yes. 7 Q Okay. So -- okay. So you have a good 8 understanding of what this case is about if you've 9 reviewed Reed's transcript; fair? 10 A I do. 11 Q Okay. Can you tell me your understanding of what 12 the dispute in this case is? 13 A I understand the dispute is that Stacy claims she 14 was mistreated with respect to her redemption. 15 Q Okay. And have you talked to Reed or Mr. Kiesler 16 about that dispute at all? 17 A No. 18 Q Never once talked to them about this whole case? 19 A Did I ever talk to them about this case once at 20 all. When we were together with our -- with our 21 counsel, we would talk about it. 22 Q Okay. 23 A We would be in the same conversation with counsel. 24 Q Okay. Have you communicated with anyone other 25 than your counsel here or the general counsel at</p>	<p>1 A In general, the term value as indicating something 2 of worth, I might value a relationship, there 3 might be other indications of -- 4 Q Okay. We're just talking about cold hard cash 5 today. 6 A Yes. I'm aware of a book value. That's a term in 7 finance. 8 Q Yeah. And we might talk about book value. If 9 we're talking about anything other than that fair 10 market value, I'll be specific that we're talking 11 about book value or, you know, any other type of 12 value or, you know, things that you just value 13 generally. 14 A Okay. 15 MR. CHURCHILL: And I'll just state 16 for the record as an objection that we don't 17 agree to the use of value globally in the 18 same way for reasons that the witness just 19 stated, so we'll take the questions as they 20 come. 21 BY MR. PALAY: 22 Q So can you just give me a brief history of your 23 employment, kind of, you know, you don't have to 24 start in, like, high school, but maybe, you know, 25 where did you go to college, what did you do,</p>
Page 10	Page 12
<p>1 Acquia about the dispute generally? 2 A My wife is aware of the general dispute and that 3 I'm here. 4 Q Okay. One thing that I think you won't be 5 surprised is going to come up a good amount today 6 is the concept of value. Do you have an 7 understanding of what value means? 8 A Yes. 9 Q Okay. Can you tell me what that is? 10 A I think of value as the worth of something. 11 Q Okay. I like that. I'm going to be even a little 12 more specific today and I'm going to -- I'm going 13 to define value for our conversation as the amount 14 of money that something would change hands over in 15 exchange for where the buyer doesn't have any 16 compulsion to buy it and the seller doesn't have 17 any compulsion to sell it and it's in an arm's 18 length transaction where both buyer and seller 19 have all the relevant information. Does that make 20 sense? 21 A It does. When you say that, I think of market 22 valuation. That's what I understand to be what 23 you just described. 24 Q Yeah. I agree. Is there other concepts of value 25 that -- other than market valuation that you use?</p>	<p>1 then, you know, how did you get here? 2 A Okay. I -- after college, well, I went to 3 St. Norbert College in De Pere, Wisconsin, and 4 then after that, I worked for a company called GEF 5 Graphics down in Skokie, Illinois, did estimating 6 and planning for them. 7 And then from there, I went to work for a 8 company in Appleton called Master Litho, which is 9 a book manufacturing company, in a sales capacity. 10 From Master Litho, I went to Krause 11 Publications, which was a publisher of a variety 12 of magazines titles, and I would sell display 13 advertising for one of those magazines in 14 particular. 15 And I worked for -- well, I should -- I 16 worked for GBF graphics for six to 12 months; I 17 worked for Master Litho for one, two years; I 18 worked for Krause Publications for six to 19 12 months, and then I moved to Madison and got the 20 job at Widen in a sales capacity to sell printing 21 services, and that would be in 2000. 22 Q Oh, okay. So you started at Widen in 2000. And 23 your background is in sales generally? 24 A Yep. Sales and marketing. Yes. 25 Q What did you -- I assume you got a degree from</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 13	Page 15
<p>1 St. Norbert?</p> <p>2 A I did. Yep. Bachelor's of business</p> <p>3 administration.</p> <p>4 Q Okay. Great. And so your first job at Widen was</p> <p>5 selling you said print services?</p> <p>6 A Printing services. Yep.</p> <p>7 Q Okay. What kind of printing services?</p> <p>8 A Printing services would be called sheet-fed</p> <p>9 printing services, so that would translate into</p> <p>10 brochures, low, small-count brochures for</p> <p>11 marketing people. So they would make -- sell</p> <p>12 sheets of like an 8 and a half by 11 sell sheet,</p> <p>13 full color, or tri-float brochures. Those were</p> <p>14 the printing services that we provided from the</p> <p>15 equipment that we manage, which was sheet-fed</p> <p>16 presses.</p> <p>17 Q Okay. And what does sheet-fed mean?</p> <p>18 A The presses are fed with sheets of paper versus a</p> <p>19 roll of paper, for example.</p> <p>20 Q Oh, okay.</p> <p>21 A So sheet-fed would just indicate that it's a lower</p> <p>22 volume.</p> <p>23 Q More specialized?</p> <p>24 A Not necessarily specialized, by just a lower</p> <p>25 volume of production.</p>	<p>1 did you say, promoted into the marketing or</p> <p>2 transferred to marketing?</p> <p>3 A I would probably consider it more of a side step.</p> <p>4 Was I was in a sales role and I moved to</p> <p>5 marketing.</p> <p>6 Q Okay. And you affected sort of the direction of</p> <p>7 the company's marketing towards incorporating the</p> <p>8 image database more centrally; is that fair?</p> <p>9 A To be included as a place to differentiate the</p> <p>10 other services like printing and prepress.</p> <p>11 Q Okay. So there's printing we talked about a</p> <p>12 little bit. What's -- what is prepress?</p> <p>13 A You can think of prepress as the color retouching</p> <p>14 of an image. That was the -- one of the services.</p> <p>15 There was also the preparation of catalogs before</p> <p>16 they go to press. So we would operate in between</p> <p>17 the design firm and the printer, and we would help</p> <p>18 to make the files that the designers were creating</p> <p>19 ready for the print production process.</p> <p>20 Q Are those, like -- what kind of files are those?</p> <p>21 Are those like physical files? Are they digital</p> <p>22 files?</p> <p>23 A There was a transformation over time. So based on</p> <p>24 my recollection, the digitization of prepress was</p> <p>25 a late '80s thing. The company that helped usher</p>
Page 14	Page 16
<p>1 Q Okay. And that was in 2008? Or 2000, sorry.</p> <p>2 A That was 2000. Yep.</p> <p>3 Q Okay. How did you progress through Widen</p> <p>4 Enterprises?</p> <p>5 A After selling printing -- printing is a difficult</p> <p>6 thing to sell. It was a very commoditized</p> <p>7 service. There was a tremendous amount of pricing</p> <p>8 pressure to sell those things. And Widen already</p> <p>9 had what they referred to as an image database at</p> <p>10 the time, and this was something that I viewed as</p> <p>11 differentiation, and so I pursued a role in</p> <p>12 marketing to help guide the company to use this as</p> <p>13 a place to differentiate us in not just printing,</p> <p>14 but the other services that we provide, because we</p> <p>15 also provided prepress services, and this image</p> <p>16 database is a service. And so I moved from sales</p> <p>17 to marketing, and then from marketing to then</p> <p>18 managed sales and marketing both and those teams,</p> <p>19 and then build up the marketing efforts.</p> <p>20 Q Okay. So I got to unpack that because -- so first</p> <p>21 in your sales capacity, you recognized the image</p> <p>22 database as a point of differentiation with some</p> <p>23 of your competitors?</p> <p>24 A Yeah.</p> <p>25 Q Okay. And then because of that, you were, what</p>	<p>1 that in was a company called Scitex, and then it</p> <p>2 transitioned into digital more fully, and so the</p> <p>3 files that we would prepare would be things like</p> <p>4 Photoshop files, you can think on a per-image</p> <p>5 level. There was like an EPS file, which is an</p> <p>6 encapsulated postscript file.</p> <p>7 Q Okay. So by the time you got there, it was -- the</p> <p>8 file touch-up was all digital?</p> <p>9 A Yeah.</p> <p>10 Q Okay. Got it. And then so tell me more. How did</p> <p>11 you -- how did you encompass the image database</p> <p>12 into the prepress and printing aspect of the</p> <p>13 company?</p> <p>14 A How did I encompass it into the aspects of the</p> <p>15 company.</p> <p>16 Q If I didn't phrase that right, feel free to just</p> <p>17 tell me how it does make sense.</p> <p>18 A Yeah. I think of it as a source of</p> <p>19 differentiation. So how could we more effectively</p> <p>20 sell this suite of things that we were delivering</p> <p>21 to market. And I viewed the image database as a</p> <p>22 place to create more value for the customer in</p> <p>23 this case and say we could sell printing, we could</p> <p>24 sell prepress, we could sell the image database.</p> <p>25 Q These are images that the company owned or had the</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 17	Page 19
<p>1 rights to?</p> <p>2 A The company did not own these images. The</p> <p>3 customer owned the images.</p> <p>4 Q Oh, okay. So you used a specific customer's</p> <p>5 images with that customer?</p> <p>6 A The customer would contract us to do work on an</p> <p>7 image.</p> <p>8 Q Okay.</p> <p>9 A Customer would upload files into the image</p> <p>10 database that were their files.</p> <p>11 Q Got it. And so you were housing files for the</p> <p>12 customer?</p> <p>13 A Correct.</p> <p>14 Q And housing iterations of, you know, touch-ups and</p> <p>15 changes that happened to the image?</p> <p>16 A Correct.</p> <p>17 Q Okay. And then you'd make those accessible to the</p> <p>18 customer in a way that added value to them?</p> <p>19 A And the -- yes. The accessibility was through</p> <p>20 the -- well, the customer would make them</p> <p>21 accessible, so the customer would organize those,</p> <p>22 those what we call digital assets. The customer</p> <p>23 would organize those in a way that they wanted,</p> <p>24 and then they would extend permissions to the</p> <p>25 rights to people that they wanted to have access</p>	<p>1 A Correct.</p> <p>2 Q And you recognized that as something that could</p> <p>3 add more value than the company was emphasizing at</p> <p>4 the time?</p> <p>5 A Correct.</p> <p>6 Q Okay. So, yeah, so what ended up happening with</p> <p>7 that? Did that pan out?</p> <p>8 A It did.</p> <p>9 Q Okay.</p> <p>10 A We pivoted to grow in software and then the</p> <p>11 printing and the prepress services. Printing was</p> <p>12 a -- we divested from printing at some point in</p> <p>13 our history. I don't recall the year we divested</p> <p>14 from it. But we no longer provided printing</p> <p>15 services. We still provided these prepress</p> <p>16 services or image retouching services, but that</p> <p>17 market was in decline, so we pivoted to doing just</p> <p>18 the software, focusing on just the software and</p> <p>19 then growing that business.</p> <p>20 Q And when did that pivot take place?</p> <p>21 A I would say that was over time.</p> <p>22 Q Okay.</p> <p>23 A Because it was -- the software was created, based</p> <p>24 on my understanding, the software was created in</p> <p>25 about the mid '90s, and so that's when we started</p>
Page 18	Page 20
<p>1 to those things.</p> <p>2 Q Oh, okay. So the customer's the one who is</p> <p>3 housing all of this data, like it's on their --</p> <p>4 the customer's servers?</p> <p>5 A No.</p> <p>6 Q Oh, okay. You have -- they're on your servers?</p> <p>7 A They were on our servers early, yes. So we had a</p> <p>8 server room, we had a data center at our location,</p> <p>9 and in that data center resided those images.</p> <p>10 They were stored there. The customers would</p> <p>11 access it through the web browser.</p> <p>12 Q Okay. Got it. So did there come a point when the</p> <p>13 company started building, designing out, and</p> <p>14 creating software that allowed the customers to</p> <p>15 interact with their own images that were on your</p> <p>16 servers or servers that you, you know, license</p> <p>17 elsewhere?</p> <p>18 A The image database was the interface --</p> <p>19 Q That is the interface?</p> <p>20 A -- to the storage, so to speak.</p> <p>21 Q Okay. So was that software?</p> <p>22 A Yes.</p> <p>23 Q Okay. And that was Widen software?</p> <p>24 A Correct.</p> <p>25 Q And that existed before you got there?</p>	<p>1 doing image database things. And so over time, it</p> <p>2 progressed into being the business. We were in</p> <p>3 the software business only.</p> <p>4 Q Okay. Like, is there a year you can say you were</p> <p>5 in the software business only by for sure?</p> <p>6 A When we sunsetted the content production business,</p> <p>7 which was a new label to the prepress business,</p> <p>8 when we sunsetted that business, we could say at</p> <p>9 that time we were only software.</p> <p>10 Q Okay. Do you remember about when that sunsetting</p> <p>11 occurred?</p> <p>12 A That was in -- that was in -- that was actually in</p> <p>13 COVID time where we -- in that -- in that moment</p> <p>14 in time, the work just stopped showing up, so</p> <p>15 customers would no longer send work, and we saw</p> <p>16 this firsthand. So there was -- there was just</p> <p>17 nothing to do. Customers would not give us work</p> <p>18 anymore because they -- because of their</p> <p>19 uncertainty.</p> <p>20 Q When you say work, do you mean prepress work?</p> <p>21 A I mean prepress work.</p> <p>22 Q Okay. But the --</p> <p>23 A Not --</p> <p>24 Q Sorry. I didn't mean to cut you off.</p> <p>25 A It wasn't exclusive to the prepress work at that</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 21	Page 23
<p>1 time. There was other challenges in that time</p> <p>2 period. But because of the work that stopped</p> <p>3 showing up, we had made a decision to say we need</p> <p>4 to consider what exiting this business looks like.</p> <p>5 <b>Q Okay. Was the software work still going on at</b></p> <p>6 <b>that point?</b></p> <p>7 <b>A</b> The software work was going on at that time, but</p> <p>8 that also had significant challenges, so we had --</p> <p>9 we had gone into -- we had gone into March of 2020</p> <p>10 and had to navigate the uncertainty not just of</p> <p>11 the content production business, but also of the</p> <p>12 software business.</p> <p>13 So we had made a lot of adjustments and</p> <p>14 planning for what we were anticipating or</p> <p>15 projecting for revenue that was not going to show</p> <p>16 anymore. So we had gone through a variety of</p> <p>17 planning. We had -- in fact we had planned for up</p> <p>18 to 6 million in reductions for expenses. We ended</p> <p>19 up actioning at about three of that in</p> <p>20 anticipation of just the uncertainty.</p> <p>21 <b>Q Sure.</b></p> <p>22 <b>A</b> So we had to -- so we had to -- that was all part</p> <p>23 of that time period.</p> <p>24 <b>Q Okay. So, yeah. So there's like a general</b></p> <p>25 <b>uncertainty about everything at that time period,</b></p>	<p>1 the image database services in that time period.</p> <p>2 So it was based on Reed's direction at the time,</p> <p>3 that was the portfolio of things we were putting</p> <p>4 out there to diversify away from what was prepress</p> <p>5 and what might happen to prepress.</p> <p>6 <b>Q What was that time? Was that mid '90s or was that</b></p> <p>7 <b>when you joined?</b></p> <p>8 <b>A</b> I think that -- all those things were created</p> <p>9 before I got there.</p> <p>10 <b>Q Got it. Okay.</b></p> <p>11 <b>A</b> And the way I think about the history is I place</p> <p>12 those in the mid '90s.</p> <p>13 <b>Q Okay.</b></p> <p>14 <b>A</b> But I started in 2000, so I know that they were</p> <p>15 already there when I started.</p> <p>16 <b>Q And so we kind of left off, you side-stepped from</b></p> <p>17 <b>sales to marketing, and then you oversaw both</b></p> <p>18 <b>sales and marketing?</b></p> <p>19 <b>A</b> Correct.</p> <p>20 <b>Q Okay. And then how did you come to run this</b></p> <p>21 <b>company?</b></p> <p>22 <b>A</b> After -- well, after managing -- we changed the</p> <p>23 sales and marketing motion. We used to have</p> <p>24 outside salespeople who would make cold calls on</p> <p>25 potential customers. That was an ineffective way</p>
Page 22	Page 24
<p>1 but the company still decided, sorry, to sort of</p> <p>2 conclude the pivot from, you know, prepress to</p> <p>3 solely software during that COVID period?</p> <p>4 <b>A</b> I would say based on the demand for those services</p> <p>5 that stopped showing up, then we -- yeah, we had</p> <p>6 to make a business decision there and say we just</p> <p>7 can't keep doing this anymore. It's not going to</p> <p>8 generate the profits that we need.</p> <p>9 <b>Q Got it.</b></p> <p>10 <b>A</b> So we're going to exit.</p> <p>11 <b>Q And so this was a transition that -- was this a</b></p> <p>12 <b>transition that had begun before you arrived at</b></p> <p>13 <b>the company or was this something that you were</b></p> <p>14 <b>kind of the catalyst for?</b></p> <p>15 <b>A</b> I think since it was started in the mid '90s, the</p> <p>16 company was aware of it, and I would say Reed in</p> <p>17 particular, because at that time there was a</p> <p>18 general understanding of this digitization process</p> <p>19 and that prepress was not going to be the same</p> <p>20 thing like it used to be.</p> <p>21 And so that was a -- in fact, that's the --</p> <p>22 based on my understanding, that's when Reed</p> <p>23 decided to diversity into several different</p> <p>24 things. We established a photo studio at the</p> <p>25 time. We added the printing services. We added</p>	<p>1 of selling, and we moved to a marketing-driven</p> <p>2 approach whereby we would display our thought</p> <p>3 leadership in the market and then we would draw</p> <p>4 people to us who had that need. And so that was</p> <p>5 part of the sales and marketing activities at the</p> <p>6 time, and Reed looked favorably on that, and I --</p> <p>7 <b>Q Did it -- like did you make the company more money</b></p> <p>8 <b>by kind of changing that motion of marketing?</b></p> <p>9 <b>A</b> Make the company more -- we made the company more</p> <p>10 effective. Absolutely more effective. It was</p> <p>11 better use of dollars.</p> <p>12 <b>Q Got it.</b></p> <p>13 <b>A</b> Versus the -- what I would refer to as the</p> <p>14 outbound sales process versus the inbound</p> <p>15 marketing approach.</p> <p>16 <b>Q How do you measure, like, effectiveness?</b></p> <p>17 <b>A</b> There is, if you -- well new customers is a good</p> <p>18 way to measure.</p> <p>19 <b>Q Okay.</b></p> <p>20 <b>A</b> So how many new customers are we earning as a</p> <p>21 result of what we're doing.</p> <p>22 <b>Q Okay.</b></p> <p>23 <b>A</b> So that's a measure.</p> <p>24 <b>Q Does that mean more revenues?</b></p> <p>25 <b>A</b> New customers would equate to more revenues.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 25	Page 27
<p>1 Q Okay.</p> <p>2 A Yes.</p> <p>3 Q So is that kind of a measurement of growth or a</p> <p>4 better use or a better effectiveness, sorry?</p> <p>5 A Say more there.</p> <p>6 Q If I was looking for like a hard number kind of</p> <p>7 way to measure increased effectiveness and, you</p> <p>8 know, it's through new customers, would that --</p> <p>9 and that equates to new revenues, would more</p> <p>10 revenues, you know, equate to a more effective</p> <p>11 company?</p> <p>12 MR. CHURCHILL: Objection.</p> <p>13 Confusing. You can answer.</p> <p>14 A I guess I would generally say a sales and</p> <p>15 marketing effectiveness measure is how much it</p> <p>16 costs to acquire a customer. So it's referred to</p> <p>17 as CAC, Customer Acquisition Cost. So that's</p> <p>18 generally, when you think about sales and</p> <p>19 marketing effectiveness, people would refer to</p> <p>20 CAC, so how much money are we spending to acquire</p> <p>21 a customer.</p> <p>22 Q Okay. And you care about a customer because the</p> <p>23 customer brings in revenue?</p> <p>24 A You care about the customer because -- well,</p> <p>25 because we can help the customer ultimately. Like</p>	<p>1 able to help more customers. But it didn't</p> <p>2 necessarily cost us less at that moment in time.</p> <p>3 It would have over time.</p> <p>4 Q Okay. And was that -- was this what you</p> <p>5 instituted as the head of sales and marketing,</p> <p>6 this emphasis on what we're talking about,</p> <p>7 lowering CAC and acquiring more customers and more</p> <p>8 efficient means?</p> <p>9 MR. CHURCHILL: Objection. Vague.</p> <p>10 You can answer.</p> <p>11 A I didn't institute a lower CAC. That wasn't a</p> <p>12 directive. What I was leading was we can help</p> <p>13 more people, we can bring in more customers, and</p> <p>14 so that's what I wanted. And then I staffed the</p> <p>15 team to do that.</p> <p>16 Q Okay. And when did you take over as the CEO? Was</p> <p>17 that the next step from head of sales and</p> <p>18 marketing to CEO?</p> <p>19 A Correct.</p> <p>20 Q Okay. When did that happen?</p> <p>21 A That was February 2009.</p> <p>22 Q Okay. And what as far as you understand led to</p> <p>23 that decision?</p> <p>24 MR. CHURCHILL: Objection to the</p> <p>25 extent it calls for speculation.</p>
Page 26	Page 28
<p>1 they have a -- they came to us with a problem,</p> <p>2 we've got a product that is able to solve that</p> <p>3 problem, and so we want to solve that problem. We</p> <p>4 want to -- we want to help that customer realize</p> <p>5 whatever their desired outcome is. And so that's</p> <p>6 the path that we go. And the customer pays us for</p> <p>7 that.</p> <p>8 Q Right. Okay. So it's like more customers for</p> <p>9 less spend, kind of?</p> <p>10 A Not necessarily more customers for less spend.</p> <p>11 Q The cost of acquiring a customer goes down, so the</p> <p>12 per-customer spend is lower? No?</p> <p>13 A Cost of acquiring a customer might go up because</p> <p>14 you're investing in that growth. And you might</p> <p>15 bring it down over time, but your acquisition of a</p> <p>16 customer might cost you more in the earlier years</p> <p>17 than the later years.</p> <p>18 Q But the goal is to get that -- the CAC low?</p> <p>19 A The goal would be, yeah, to have a CAC -- to have</p> <p>20 a lower CAC is one mix that you would say, yeah,</p> <p>21 we would want a lower CAC eventually.</p> <p>22 Q Got it.</p> <p>23 A And eventually the -- I would say that the</p> <p>24 outbound move to inbound was more effective</p> <p>25 because it drew more customers to us. We were</p>	<p>1 A I told Reed I wanted that job.</p> <p>2 Q When?</p> <p>3 A Whenever he thought I was ready.</p> <p>4 Q Okay. But when did you tell him? Sorry.</p> <p>5 A Oh, I don't recall that date.</p> <p>6 Q Okay. And who made the decision to -- that you</p> <p>7 would be CEO?</p> <p>8 A Reed.</p> <p>9 Q Okay. Was there like a meeting that happened</p> <p>10 before that where that decision was made, or was</p> <p>11 that just a decision Reed made alone?</p> <p>12 MR. CHURCHILL: Objection. Calls</p> <p>13 for speculation.</p> <p>14 A I don't know.</p> <p>15 Q Okay. So let's look at a document.</p> <p>16 (Exhibit No. 1 was marked for</p> <p>17 identification.)</p> <p>18 Q Okay. So I'm handing you what's been marked as</p> <p>19 Exhibit 1. And I guess I'll just ask you, do you</p> <p>20 recognize this as a Widen Enterprises business</p> <p>21 plan that you prepared?</p> <p>22 Are you looking for something in particular?</p> <p>23 A No. So far, yes is the answer, but I want to make</p> <p>24 sure that all the pages are --</p> <p>25 Q Oh, okay.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 29	Page 31
<p>1 A Are recognizable.</p> <p>2 Q I didn't slip any in. It might make more sense if</p> <p>3 we talk about a few specific pages, and then you</p> <p>4 let me know if anything doesn't seem right about</p> <p>5 this document. The cover for instance says</p> <p>6 Business Plan 2008 Prepared by Matthew Gonnering;</p> <p>7 right?</p> <p>8 A Yes.</p> <p>9 Q Okay. And did you prepare a business plan for</p> <p>10 Widen Enterprises in 2008?</p> <p>11 A I did.</p> <p>12 Q Okay. And at that time you were head of sales and</p> <p>13 marketing?</p> <p>14 A Yes.</p> <p>15 Q Okay. What prompted you to prepare this?</p> <p>16 A I don't remember.</p> <p>17 Q Do you recall if anyone asked you to prepare this?</p> <p>18 A I don't recall.</p> <p>19 Q Okay. If you open the cover sheet on the first</p> <p>20 page, there's an executive summary, and the second</p> <p>21 paragraph starting at the second sentence, it</p> <p>22 says, "Widen is about to embark on another</p> <p>23 monumental shift that requires the transformation</p> <p>24 of process and the alignment of resources to focus</p> <p>25 on the strategic objectives of the organization."</p>	<p>1 the enabling vehicle to get there." What did you</p> <p>2 mean by global domination?</p> <p>3 A That's Matthew trying to inspire.</p> <p>4 Q Okay. Like to be the best, you know, digital</p> <p>5 asset management company in the world or in the</p> <p>6 globe?</p> <p>7 A Yeah. To be the leader, the market leader.</p> <p>8 Q Okay. And did you -- were you the market leader</p> <p>9 at the time that this was created?</p> <p>10 A We were not.</p> <p>11 Q Did you think you could get there?</p> <p>12 A Yes.</p> <p>13 Q Where -- did you have a sense of where in the</p> <p>14 digital asset management market Widen Enterprises</p> <p>15 was at this time?</p> <p>16 A I would say our position here was a -- we were a</p> <p>17 small player.</p> <p>18 Q And you wanted to be a -- the biggest player?</p> <p>19 A I wanted to be the leader.</p> <p>20 Q The leader. Okay. So what does it mean to you to</p> <p>21 be the leader?</p> <p>22 A I think it -- to be a leader means you're setting</p> <p>23 an example. So not just the biggest. To be the</p> <p>24 biggest, the biggest what? We were not going to</p> <p>25 be able to be bigger in revenue than Adobe or</p>
Page 30	Page 32
<p>1 And then it lists some objectives. Did I read</p> <p>2 that right?</p> <p>3 A You did.</p> <p>4 Q Okay. So what was the monumental shift that the</p> <p>5 company was about to embark on?</p> <p>6 A This is -- well, the objectives strengthen</p> <p>7 customer relationships, advance the software</p> <p>8 architecture, efficiencies in premedia, which is</p> <p>9 also referred to as prepress historically and also</p> <p>10 the reference to content and production, and then</p> <p>11 dominate the market.</p> <p>12 The monumental shift would be the software,</p> <p>13 building what we planned as a -- what I would</p> <p>14 refer to as a house of brands. We were going to</p> <p>15 want to build up a variety of different products</p> <p>16 that were consisting of different brands</p> <p>17 underneath the Widen business. But our go-to</p> <p>18 market would be -- eventually that was brands like</p> <p>19 Smartimage, Invidity, things that we created over</p> <p>20 time. So to embark on a monumental shift was to</p> <p>21 say we're going to build up the software part of</p> <p>22 the business even more.</p> <p>23 Q Okay. And what did -- under the dominate the</p> <p>24 marketplace, it says, "The goal is nothing short</p> <p>25 of global domination, and marketing resources is</p>	<p>1 OpenText. Some of those, that's not -- that's not</p> <p>2 a reasonable ask. So to be a leader would be to</p> <p>3 represent ourselves and to have the -- a market</p> <p>4 leading reputation for being customer-centric, for</p> <p>5 solving customer problems, the go-to place.</p> <p>6 Q Got it.</p> <p>7 A You need to -- you need to consider Widen if</p> <p>8 you're thinking about digital asset management.</p> <p>9 Q And -- okay. And you said the monumental shift</p> <p>10 was a shift to focus on software; right?</p> <p>11 MR. CHURCHILL: Objection.</p> <p>12 Misstates testimony.</p> <p>13 BY MR. PALAY:</p> <p>14 Q Is that -- did I understand that correctly?</p> <p>15 A The monumental shift was to focus on building what</p> <p>16 would ultimately be called a house of brands.</p> <p>17 That was what was intended to be built with what</p> <p>18 we were pursuing here. Which wouldn't have been</p> <p>19 exclusively digital asset management.</p> <p>20 Q Okay. Was it -- did part of the shift mean</p> <p>21 increasing the focus on digital asset management?</p> <p>22 A Digital asset management was part of it.</p> <p>23 Q Okay.</p> <p>24 A In addition to other brands that we would -- that</p> <p>25 were not known at this time, but other brands that</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 33	Page 35
<p>1 we would create and then ultimately did create.</p> <p>2 <b>Q Were those other brands software brands?</b></p> <p>3 A They were.</p> <p>4 <b>Q Okay. So like how much of the business was</b></p> <p>5 <b>software at the time you created this document,</b></p> <p>6 <b>approximately?</b></p> <p>7 A I don't recall. I would also say that software is</p> <p>8 one component of this, as well, because as we</p> <p>9 think about what it looks like to strengthen a</p> <p>10 customer relationship, the software doesn't</p> <p>11 necessarily strengthen the software relationship.</p> <p>12 The responsiveness to the requests, the customer</p> <p>13 success plans that we embark on, the professional</p> <p>14 services that we wrap around, the software itself</p> <p>15 was really important, so.</p> <p>16 <b>Q That makes a lot of sense. But the end product,</b></p> <p>17 <b>you know, those are infrastructure aspects of the</b></p> <p>18 <b>company; right?</b></p> <p>19 A I wouldn't refer to those as infrastructure. I</p> <p>20 would refer to those as services that we wrapped</p> <p>21 around the software.</p> <p>22 <b>Q Oh, okay. Like you would pay separately for those</b></p> <p>23 <b>things, or were those things the company did to</b></p> <p>24 <b>sell its software services more effectively?</b></p> <p>25 A We would bundle the services such as</p>	<p>1 might interpret what does it mean to deliver it</p> <p>2 via SaaS.</p> <p>3 <b>Q Okay.</b></p> <p>4 A We amplify it intentionally for differentiation</p> <p>5 reasons, that we're providing services around the</p> <p>6 software.</p> <p>7 <b>Q Got it. Well, maybe not got it, but getting it.</b></p> <p>8 <b>And -- okay. So software as a service kind of</b></p> <p>9 <b>describes this sort of general type of a company,</b></p> <p>10 <b>you know, and you said people sort of view it</b></p> <p>11 <b>differently, like Widen focused on the service</b></p> <p>12 <b>aspect of software as a service, some companies</b></p> <p>13 <b>might focus more just on the software subscription</b></p> <p>14 <b>aspect of the service, and digital asset</b></p> <p>15 <b>management is a subset type of software as a</b></p> <p>16 <b>service?</b></p> <p>17 A Let me try that differently.</p> <p>18 <b>Q Just take it from the top.</b></p> <p>19 A Yeah.</p> <p>20 <b>Q Yeah don't even start with what I --</b></p> <p>21 A We could think about SaaS as a delivery model.</p> <p>22 How are we going to deliver the software. SaaS is</p> <p>23 a way to deliver it. And you would say that SaaS</p> <p>24 is a way to deliver it versus installed software.</p> <p>25 So are we going to sell this software or deliver</p>
Page 34	Page 36
<p>1 implementation. We would say there's software,</p> <p>2 but there's the implementation help that we're</p> <p>3 going to provide you to get you up and running,</p> <p>4 and then there's the ongoing support, so when you</p> <p>5 have questions, you call us. Those were bundled</p> <p>6 with the software.</p> <p>7 <b>Q Got it. Is that what it means to be like software</b></p> <p>8 <b>as a service, like the -- does that encompass the</b></p> <p>9 <b>ongoing support aspect of, you know, you pay for</b></p> <p>10 <b>software, you maybe pay a subscription fee, but</b></p> <p>11 <b>you also pay for sort of support as you go and</b></p> <p>12 <b>need it?</b></p> <p>13 A That's how I thought of software as a service.</p> <p>14 <b>Q Okay.</b></p> <p>15 A And how I would advocate for software as a</p> <p>16 service, which is it's not just about the</p> <p>17 software, it's about the service that we're going</p> <p>18 to provide to the customer.</p> <p>19 <b>Q That makes sense.</b></p> <p>20 A That's not necessarily how a software as a service</p> <p>21 would be defined industry-wide. The SaaS or</p> <p>22 software as a service delivery might also be</p> <p>23 considered a -- something hosted. So it would be</p> <p>24 I'm accessing that software through a internet</p> <p>25 connection in a web browser. So that's how others</p>	<p>1 this software via a hosted environment or</p> <p>2 installing it into a server room somewhere else.</p> <p>3 So that's the -- SaaS is the delivery model. The</p> <p>4 software of digital asset management before SaaS</p> <p>5 was a thing was delivered and still is to this day</p> <p>6 as an installed thing.</p> <p>7 <b>Q Got it.</b></p> <p>8 A So you could put digital asset management software</p> <p>9 in a server room for some customer, and they could</p> <p>10 run it there, and customers still do that and</p> <p>11 providers still do that.</p> <p>12 We were focused on the SaaS delivery model</p> <p>13 and we amplified the service component because we</p> <p>14 knew or thought we knew what the customer wanted,</p> <p>15 and they wanted not just the software of digital</p> <p>16 asset management, they wanted the experience</p> <p>17 around that software and the services around it,</p> <p>18 like implementation and support.</p> <p>19 <b>Q Okay. That -- it's starting to -- it's starting</b></p> <p>20 <b>to click. Let's flip way ahead. You see these --</b></p> <p>21 <b>the numbers on the bottom, it says Acquia and then</b></p> <p>22 <b>it has numbers?</b></p> <p>23 A I do.</p> <p>24 <b>Q Let's go to 11067. This says it's a pro forma</b></p> <p>25 <b>income statement, and it looks like it has some</b></p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 37	Page 39
<p>1 years from before 2008 and some years, you know, 2 starting in 2008 going forward, and they have a P 3 next to them at the top, and I assume that means 4 projected. Is that correct? 5 A That's correct. 6 Q Okay. Can I actually ask you to read the 7 paragraph below all the numbers, and then I'm just 8 going to ask you what it means, because I don't -- 9 I'm not, as you can tell, super up on this stuff. 10 A Okay. So read the paragraph that starts with 11 Interpretations? 12 Q Yeah. 13 A Okay. "Interpretations from historical activity 14 led to correlations between the increase in the 15 percentage of revenue from software services and 16 the decrease in cost of goods sold. This 17 correlation may be drawn because the variable cost 18 associated with providing software services to 19 additional customers is minimal, thus the 20 contribution margin to fixed cost has greater than 21 influence causing increases in net income. 22 Increases in sales and marketing spend have 23 also risen during this time period, which proves 24 to be directly correlated with increasing the 25 percentage of revenue attributed to software</p>	<p>1 company's revenue coming from its software 2 services correlates with lower costs of goods 3 sold, and that correlates with a higher net 4 income? 5 A Potentially. If we -- it contributes to -- so 6 yes, the software services would have a better 7 gross margin than the prepress premedia content 8 production services. How we spend the rest of the 9 money matters related to income. Because there's 10 research and development, sales and marketing, 11 general administrative expenses. 12 Q And this goes to something you were kind of trying 13 to explain to me before I think, which is you also 14 need to spend more on your marketing, at least 15 in -- at the early stage in order to get that, you 16 know, higher percentage of the company's revenue 17 to come from software, so you might not get a 18 higher net income on your way, you know, on this 19 path; is that fair? Or it might be a slower build 20 to a higher net income because you're using more 21 money to do marketing? 22 A Yeah. We would invest more money in marketing, 23 and therefore -- yeah, it wouldn't just be 24 marketing. There's R&amp;D, marketing, yes, for 25 positioning and other general administrative</p>
Page 38	Page 40
<p>1 services. Continuing to focus on increasing the 2 percentage of software services revenue will 3 require increases in sales and marketing 4 expenses." 5 Q Thank you. Okay. How would you explain that to 6 like -- like an 8th grader? We could go as low as 7 6th if we need to. 8 MR. CHURCHILL: Do you have either 9 one of those? 10 MR. PALAY: I don't. But I am one 11 at heart, so -- 12 A This is -- well, if we -- if we invest on -- if we 13 invest in increasing the sales and marketing 14 activities for software, we'll increase the 15 revenue. And that revenue is more profitable than 16 the content production or prepress or premedia 17 service revenue. 18 Q Got it. Okay. So -- 19 A Which I -- sorry. 20 Q No. I didn't mean to cut you off. 21 A That's not necessarily sixth grade or eighth grade 22 talk, though. 23 Q That is low enough. Like, I think -- okay. So 24 the way I sort of tried to decipher it was you're 25 saying like a -- a higher percentage of the</p>	<p>1 expenses. So those things are all part of what 2 would take from the gross margin and before you 3 get to the net income. 4 Q Okay. So you get -- so higher percentage of 5 revenues from software create a bigger gross 6 margin; fair? 7 A Higher revenue percentage from software creates a 8 better gross margin. That is -- if you're 9 managing your business effectively. 10 Q Because that was the plan here? 11 A Yep. 12 Q Okay. But it might not have created any 13 difference or even a better net margin because you 14 might use some or all of that new margin that 15 you've created to do -- for the things you're 16 saying, marketing, R&amp;D service, build out, things 17 like that? 18 A Correct. 19 Q Got it so this is a plan for building -- for 20 growing the company? 21 A Correct. 22 Q Okay. And growing it as a software-centric 23 company? 24 A The content production and premedia and prepress 25 services were still a part of this, so that is in</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 41	Page 43
<p>1 the total revenue.</p> <p>2 Q But this one -- but this paragraph's talking about</p> <p>3 an increase in the software revenue specifically;</p> <p>4 right?</p> <p>5 A Let's double check it.</p> <p>6 Q I should say an increase in revenue from providing</p> <p>7 software services, I think is more accurately what</p> <p>8 this is referring to.</p> <p>9 A Increasing the percentage of revenue attributed to</p> <p>10 software services. So that was the -- that was</p> <p>11 the -- that was the direction.</p> <p>12 Q Okay. So fair to say your plan here is to</p> <p>13 increase the company's percentage of revenues</p> <p>14 coming from its software services from before the</p> <p>15 plan, and that that would be the best way to grow</p> <p>16 the company going forward?</p> <p>17 A The best way to grow the company going forward was</p> <p>18 to focus on markets that were growing and</p> <p>19 attractive, and software was attractive, and we</p> <p>20 had a steady decline on the other side of the</p> <p>21 business. So the direction of the company was to</p> <p>22 grow software.</p> <p>23 Q Got it. Okay. And is that ultimately what the</p> <p>24 company did?</p> <p>25 A Ultimately we grew the software business.</p>	<p>1 services for an extended period of time.</p> <p>2 The challenge we were navigating was the</p> <p>3 content production prepress premedia business was</p> <p>4 not a sustainable business. There was not growth</p> <p>5 opportunity there. So when the directive is grow</p> <p>6 this company, we had to find a different way to</p> <p>7 grow. So growth was the objective.</p> <p>8 Q Okay. And is a growing company more valuable than</p> <p>9 a declining company?</p> <p>10 A Is a growing company more valuable than a</p> <p>11 declining company. Is the worth of a growing</p> <p>12 company -- it depends.</p> <p>13 Q Two companies otherwise identical, one's growing,</p> <p>14 one's declining, fair to say the one growing is</p> <p>15 going to be more valuable?</p> <p>16 MR. CHURCHILL: Object to the</p> <p>17 extent it calls for expert testimony.</p> <p>18 A I think the value of the company and the -- the</p> <p>19 value of the company would include more than just</p> <p>20 growth. So growth is --</p> <p>21 Q But they're identical other than the growth and</p> <p>22 the decline.</p> <p>23 A Repeat that for me.</p> <p>24 Q So the two companies, identical. One's growing,</p> <p>25 one's declining. Is the growing one more valuable</p>
Page 42	Page 44
<p>1 Q Okay.</p> <p>2 A Yes.</p> <p>3 Q Did the company follow this plan more or less?</p> <p>4 A I would need to go back through this plan and look</p> <p>5 at it.</p> <p>6 Q How about just what we're talking about right</p> <p>7 there, you know, increasing the share of the</p> <p>8 company's revenue that comes from providing</p> <p>9 software services?</p> <p>10 A We did increase the percentage of revenue.</p> <p>11 Q Okay.</p> <p>12 A For providing software services, yes.</p> <p>13 Q Did you think that that would make the company</p> <p>14 more valuable?</p> <p>15 MR. CHURCHILL: Objection.</p> <p>16 Ambiguous. Vague.</p> <p>17 A I think it would make the company more --</p> <p>18 Q At the time did you think that?</p> <p>19 A I think it would make the company more</p> <p>20 sustainable.</p> <p>21 Q Okay. What does that mean? Yeah.</p> <p>22 A The direction was growth, so we're going to grow</p> <p>23 as a company. And so to grow as a company is to</p> <p>24 continue providing services. So sustainable means</p> <p>25 we're going to be able to continue to provide</p>	<p>1 than the declining one?</p> <p>2 MR. CHURCHILL: Same objections.</p> <p>3 A Not necessarily.</p> <p>4 Q Okay. What could make the declining identical</p> <p>5 company more valuable than the growing identical</p> <p>6 company?</p> <p>7 MR. CHURCHILL: Same objection.</p> <p>8 A You'd have to look deeper at those companies.</p> <p>9 You'd have to understand what the --</p> <p>10 Q Why would you have to look deeper if they're</p> <p>11 identical?</p> <p>12 MR. CHURCHILL: Same objection.</p> <p>13 A I think about what else a company would be doing.</p> <p>14 Are they innovating? What is their reputation?</p> <p>15 Q You're fighting the hypo. You're fighting the</p> <p>16 hypo, Mr. Gonnering. We can move on. I guess</p> <p>17 what I'm just looking to understand is when you</p> <p>18 wrote this plan, did you think that following this</p> <p>19 plan would make the company more valuable than it</p> <p>20 otherwise would have been?</p> <p>21 A I wrote this plan to help the company grow.</p> <p>22 Q Okay. And did you think that helping the company</p> <p>23 grow would have any affect on how valuable the</p> <p>24 company was?</p> <p>25 A I helped the company grow not to increase the</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

<p style="text-align: right;">Page 45</p> <p>1 value, but to continue to provide a sustainable</p> <p>2 organization so that we could continue to</p> <p>3 innovate, we could continue to help customers, we</p> <p>4 could continue to hire, we can continue to</p> <p>5 participate in the community, we can -- to grow is</p> <p>6 to -- is to -- is to thrive, is to keep growing,</p> <p>7 to keep helping others.</p> <p>8 Q No, I understand that that was your focus. I'm</p> <p>9 just asking did you think that being a growing and</p> <p>10 thriving company would have any affect on the</p> <p>11 value of the company?</p> <p>12 MR. CHURCHILL: Objection</p> <p>13 ambiguous.</p> <p>14 A I didn't think that way.</p> <p>15 Q Okay. You just didn't think about that at all?</p> <p>16 A Growth -- yeah. The objective was growth, and</p> <p>17 this was the plan to grow.</p> <p>18 Q Got it. Okay. Flip back two pages for me to</p> <p>19 11065.</p> <p>20 A 11065. Yep.</p> <p>21 Q Okay. So this has revenue forecasts, and it</p> <p>22 breaks them out between software as a service and</p> <p>23 the premedia business. Were those how you divided</p> <p>24 the total revenue of the company at the time,</p> <p>25 those two segments?</p>	<p style="text-align: right;">Page 47</p> <p>1 Q Okay. I see that. Fair to say the growth in</p> <p>2 total revenue is projected to occur at a much</p> <p>3 higher rate than the growth in either -- in net</p> <p>4 income?</p> <p>5 A The growth in total revenue is appearing to grow</p> <p>6 faster than the growth in sales and marketing and</p> <p>7 the growth in net income.</p> <p>8 Q Okay. And that's because of the dynamic we</p> <p>9 discussed before, you know, it's -- you were</p> <p>10 projecting to use a lot of the increased margin</p> <p>11 you create from the increased revenue on, you</p> <p>12 know, on various spending for R&amp;D, marketing,</p> <p>13 services, et cetera; is that right?</p> <p>14 A We were increasing the spending in those, yes.</p> <p>15 Q Okay.</p> <p>16 A But the revenue growth is -- I can't remember the</p> <p>17 page you referenced before, but the revenue growth</p> <p>18 is a combination of the software and the premedia</p> <p>19 business.</p> <p>20 What was the chart that we just looked at?</p> <p>21 Q I think it was 11065. So that's a good point. If</p> <p>22 you look at the change row under software as a</p> <p>23 service and premedia.</p> <p>24 A Yes.</p> <p>25 Q Both historically in projected, it looks like at</p>
<p style="text-align: right;">Page 46</p> <p>1 A Yes.</p> <p>2 Q Okay. And it looks like, going to the 2008</p> <p>3 projected software revenue at the top, looks like</p> <p>4 the company was projecting just under \$2.5 million</p> <p>5 in revenue from the software as a service</p> <p>6 business; is that correct?</p> <p>7 A That's -- yes. Correct. We were projecting less</p> <p>8 than 2.5 million in 2008. Yes.</p> <p>9 Q Okay. And then flip forward to 11070. And this</p> <p>10 is a graph that plots total revenue, sales and</p> <p>11 marketing, I think spend, and net income from 2003</p> <p>12 through a projected 2011.</p> <p>13 A Yep.</p> <p>14 Q Fair? And is it -- how would you describe the</p> <p>15 trends in this graph?</p> <p>16 A I would describe this as a growth trend.</p> <p>17 Q Okay. And how would you describe the relationship</p> <p>18 between the net income component, the sales and</p> <p>19 marketing spending, and the total revenue parts of</p> <p>20 the graph?</p> <p>21 A The relationship between the three?</p> <p>22 Q Yeah.</p> <p>23 A So if we increase sales and marketing spend, we</p> <p>24 will continue to increase the total revenue, which</p> <p>25 will allow us to increase net income.</p>	<p style="text-align: right;">Page 48</p> <p>1 this time you're projecting much smaller growth in</p> <p>2 the premedia business year to year, like 4.7</p> <p>3 basically going forward after 2008, compared to</p> <p>4 the software as a service business; right? Those</p> <p>5 are projected to grow 26 and a half percent year</p> <p>6 over year; is that right?</p> <p>7 A Software growth is projected at 26.45, and the</p> <p>8 premedia growth is projected at 4.7. Correct.</p> <p>9 Q So fair to say in that graph of total revenue, the</p> <p>10 majority of that growth is projected to take place</p> <p>11 from the software component of the business?</p> <p>12 A I'd have to understand the numbers. If you're</p> <p>13 talking about a percentage, then the percentage of</p> <p>14 growth.</p> <p>15 Q Yeah. A percentage of growth?</p> <p>16 A Yeah.</p> <p>17 Q Okay. And fair to say you said this graph</p> <p>18 represents growth? Or I don't know how you</p> <p>19 described it.</p> <p>20 A Yeah, I look at the lines and I think they're all</p> <p>21 going up and to the right, and that's a growth.</p> <p>22 Q And growth -- so growth doesn't necessarily mean</p> <p>23 that the net income is increasing by very much;</p> <p>24 fair?</p> <p>25 A Based on the projections, that's what this says.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

<p style="text-align: right;">Page 49</p> <p>1 Yes.</p> <p>2 Q Could the company grow even if the net income</p> <p>3 declined?</p> <p>4 A The company could grow in something. The company</p> <p>5 could grow in revenue.</p> <p>6 Q Okay. And when you're thinking of growth, are</p> <p>7 you -- which is more important between those two</p> <p>8 things, the gross revenue or the net income? Or</p> <p>9 what was it I guess for this specific situation?</p> <p>10 What did you think was more important to grow?</p> <p>11 A We had to keep all things in mind. So as a</p> <p>12 bootstrap company, we're not getting anything from</p> <p>13 anybody else. We're going to grow it, we're going</p> <p>14 to grow it by our own work ethic, and so we need</p> <p>15 to have a good mix of revenue growth and we have</p> <p>16 to be responsible with the dollars that we're</p> <p>17 earning and spending. Well, first spending, and</p> <p>18 then therefore earning such that we can make sure</p> <p>19 we plow it back to grow.</p> <p>20 Q Was your goal in creating this plan to grow the</p> <p>21 company's net income as much as you could?</p> <p>22 A My goal in creating this plan was to grow the</p> <p>23 company, and by growing the company in revenue, we</p> <p>24 would have the possibility of growing the company</p> <p>25 in income, as well.</p>	<p style="text-align: right;">Page 51</p> <p>1 Q Okay.</p> <p>2 A I could say --</p> <p>3 Q Why don't you just tell me how Widen Enterprises</p> <p>4 evolved and changed after this business plan in</p> <p>5 fact as opposed to worrying about the plan.</p> <p>6 A We created additional brands that were different</p> <p>7 than digital asset management. For example, we</p> <p>8 created Smartimage. We created Vidime. These</p> <p>9 were -- we acquired the copyright of an open</p> <p>10 source upload tool called Fine Uploader. So we</p> <p>11 were starting to build out a house of brands, and</p> <p>12 it was -- these were applications that were not</p> <p>13 Widen-branded, and that was part of this plan. So</p> <p>14 we invested in creating those.</p> <p>15 Q And we -- those charts we looked at, did Widen</p> <p>16 Enterprises' total revenue climb after this 2008</p> <p>17 business plan?</p> <p>18 A I don't recall. Eventually it was that way. But</p> <p>19 there was a mix over time where the projections</p> <p>20 that we anticipated were not realized until I</p> <p>21 don't recall when, but there was a time when</p> <p>22 the -- you look at the company in its total and it</p> <p>23 looked flat.</p> <p>24 Q Was there ever a down year in revenue?</p> <p>25 A I don't recall.</p>
<p style="text-align: right;">Page 50</p> <p>1 Q Okay.</p> <p>2 MR. PALAY: So this might be a good</p> <p>3 time to take a break. It's been an hour.</p> <p>4 THE VIDEOGRAPHER: Stand by one</p> <p>5 second. We're going off the record. The</p> <p>6 time is 10:07 a.m. We'll make this the end</p> <p>7 of media unit number one.</p> <p>8 (A recess is taken from 10:07 a.m. to 10:25 a.m.)</p> <p>9 THE VIDEOGRAPHER: We're going back</p> <p>10 on the record. The time is 10:25 a.m. This</p> <p>11 is the beginning of media unit number two.</p> <p>12 BY MR. PALAY:</p> <p>13 Q Mr. Gonnering, welcome back. We left off talking</p> <p>14 about this 2008 business plan a little bit. And I</p> <p>15 think it's -- we should probably fast-forward a</p> <p>16 little bit. All the planning we discussed that</p> <p>17 went into this business plan, did that occur, and</p> <p>18 if it occurred, did it work?</p> <p>19 A All the planning was --</p> <p>20 Q I'll just stop you. I didn't mean planning. All</p> <p>21 the -- the plan that you articulated in this</p> <p>22 business plan, did that get implemented at Widen</p> <p>23 Enterprises?</p> <p>24 A I need to go back and look at this business plan</p> <p>25 to see what of it got implemented.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q Okay. Let's fast-forward all the way.</p> <p>2 (Exhibit No. 2 was marked for</p> <p>3 identification.)</p> <p>4 Q Keep it handy, we might go back. Maybe just keep</p> <p>5 of stack of docs.</p> <p>6 A Okay.</p> <p>7 Q So what's been marked and marked as Exhibit 2, it</p> <p>8 says Widen Confidential Information Memorandum.</p> <p>9 Is this a document you recognize?</p> <p>10 A I recognize the cover page.</p> <p>11 Q Okay.</p> <p>12 A Because that's all I'm looking at.</p> <p>13 Q Did you ever help prepare a confidential</p> <p>14 information memorandum for Widen Enterprises?</p> <p>15 A Yes.</p> <p>16 Q Okay. And in what context did you do that?</p> <p>17 A In collaboration with a group called the Software</p> <p>18 Equity Group or SEG.</p> <p>19 Q And what was the purpose in creating the</p> <p>20 confidential information memorandum?</p> <p>21 A To highlight the company.</p> <p>22 Q To whom?</p> <p>23 A To potential buyers.</p> <p>24 Q Okay. So this is a document in marketing the</p> <p>25 company to potentially acquirers?</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 53	Page 55
<p>1 A Correct.</p> <p>2 Q Okay. And when did you -- about when did you</p> <p>3 create this document or help create this document?</p> <p>4 A The creation of this document would have been</p> <p>5 after we engaged SEG. So I would put the start of</p> <p>6 this in the early part of 2021 and into perhaps</p> <p>7 summer of 2021.</p> <p>8 Q Okay. And SEG you said is the Software Equity</p> <p>9 Group?</p> <p>10 A Correct.</p> <p>11 Q And what is that group?</p> <p>12 A That is an investment bank.</p> <p>13 Q Okay. So they were helping to market and sell</p> <p>14 Widen Enterprises?</p> <p>15 A They were helping us explore what that would look</p> <p>16 like.</p> <p>17 Q Okay. Did they eventually help sell Widen</p> <p>18 Enterprises?</p> <p>19 A Yes.</p> <p>20 Q Okay. Based on this confidential information</p> <p>21 memorandum?</p> <p>22 A It was part of the equation.</p> <p>23 Q Okay. If we go to the first page. That first</p> <p>24 larger paragraph, well, I guess I'll just read the</p> <p>25 first line, it says, "Widen Enterprises, Inc., has</p>	<p>1 as to time.</p> <p>2 A What timeline?</p> <p>3 Q When this was created, when they were the</p> <p>4 management of the company providing information</p> <p>5 for this confidential information memorandum.</p> <p>6 A So as we created this in the first half of 2021,</p> <p>7 Reed's role was chairman, my role was CEO, Mike's</p> <p>8 role was CFO, Deanna's role was chief innovation</p> <p>9 officer, Jake's role was VP of sales and</p> <p>10 marketing, Debbie's role was VP of operations, and</p> <p>11 Ben was head of technology.</p> <p>12 Q Okay. And fair to say you oversaw that team as</p> <p>13 chief executive officer?</p> <p>14 A Yes.</p> <p>15 Q Okay. Did you make sure all the information that</p> <p>16 went into this confidential information memorandum</p> <p>17 was true and accurate?</p> <p>18 A To the best of my ability.</p> <p>19 Q Yes. Okay. What was Reed's role in verifying the</p> <p>20 truth and accuracy of the information that went</p> <p>21 into this confidential information memorandum?</p> <p>22 MR. CHURCHILL: Object to the</p> <p>23 extent it calls for speculation.</p> <p>24 A I interpreted Reed's role the same as I had</p> <p>25 before, which was his -- he provided me guidance</p>
Page 54	Page 56
<p>1 engaged SEG Capital Advisors, LLC, as its</p> <p>2 exclusive financial advisor in exploring a</p> <p>3 possible sale merger for recapitalization of the</p> <p>4 company." Did I read that correct?</p> <p>5 A Yes.</p> <p>6 Q And that's just as you described it a moment ago.</p> <p>7 And the first sentence of the next paragraph says,</p> <p>8 "This memorandum has been prepared from</p> <p>9 information obtained from the management of the</p> <p>10 company and from other sources believed to be</p> <p>11 reliable." Did I read that correctly?</p> <p>12 A You did.</p> <p>13 Q And who was the management of the company that</p> <p>14 provided information for this to SEG?</p> <p>15 A The management of the company would have been the</p> <p>16 chairman and the executive team.</p> <p>17 Q And who was the chairman and who was on the</p> <p>18 executive team?</p> <p>19 A Reed Widen was the chairman, and then me and then</p> <p>20 my team, which would have been Jake, Deanna,</p> <p>21 Debby, Mike, and Ben.</p> <p>22 Q Okay. Can you just tell me what each of those</p> <p>23 people's or person's roles were at the company?</p> <p>24 A Yep. Reed --</p> <p>25 MR. CHURCHILL: Objection. Vague</p>	<p>1 and direction and mentorship.</p> <p>2 Q Okay. So in the context of creating this</p> <p>3 document, what does that mean?</p> <p>4 A That means his role as chairman was to continue to</p> <p>5 provide me guidance, mentorship, and direction for</p> <p>6 how I conduct my team and how I organize the</p> <p>7 information for this document.</p> <p>8 Q Was he, like, checking your numbers for accuracy?</p> <p>9 A He would not have gone to that level. No.</p> <p>10 Q Do you think he would have been able to do that?</p> <p>11 A If Reed would engage at that level, he would be</p> <p>12 able to do that, yeah.</p> <p>13 Q What do you mean engage at that level?</p> <p>14 A If he would look at numbers, he would dig into</p> <p>15 numbers and he would identify what those things</p> <p>16 would mean or potentially not mean and he would</p> <p>17 ask questions.</p> <p>18 Q Okay. Did he look into numbers in the creation of</p> <p>19 this document?</p> <p>20 A I don't know.</p> <p>21 Q Okay. He never told you that he looked into</p> <p>22 numbers?</p> <p>23 A He didn't tell me that he looked into numbers</p> <p>24 related to this document.</p> <p>25 Q Sorry. I should say have said in relation to this</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 57	Page 59
<p>1 document. Okay. Flip with me to 7906 at the 2 bottom. So this is a page that says, "Widen 3 Overview: A highly respected premium brand 4 trusted by hundreds of the worlds most iconic 5 enterprise brands." Is that right? 6 A Yes. 7 Q And then there's a series of numbers under that. 8 Can you just take me through what each of those 9 mean? 10 A Yep. Active assets is the volume of digital 11 assets that customers were managing in our 12 systems. 13 Q Okay. Is that an important metric for a digital 14 asset company? 15 A Not necessarily. 16 Q Okay. 17 A It indicates volume, scale. 18 Q And 63 million is your -- was your number? 19 A This reads 63 million-plus, so this would be 20 something more than 63 million. 21 Q Okay. Yeah. You can -- 22 A 102,000-plus year to date active users with a 23 couple footnotes there as of certain dates. So 24 the year to date footnote two as of April 21, in 25 the footnote three, active users, active users are</p>	<p>1 of how a company is or might grow in the future. 2 Yes. 3 Q Okay. And why the recurring revenue over just 4 general revenue? 5 A Recurring revenue is the subscription to the 6 software services, and so it reoccurs, so that's 7 good for retention and -- 8 Q Like you've already done a lot of the work to get 9 to customer and they're keeping coming back? 10 A Yeah. It's a good -- it's a good measure of 11 growth. 12 Q Okay. Would that be the most important type of 13 revenue at this type of company? 14 MR. CHURCHILL: Objection. Vague 15 and ambiguous. 16 A Depends. 17 Q Well, it's the first type of revenue that the 18 company and its investment bankers highlighted on 19 this page, so I took that to mean that the company 20 and the investment bankers thought it was 21 particularly important. Is that fair? 22 A I don't know that the order of that matters. 23 Q Did you think this was particularly important 24 aspect of the company? 25 A I think it was one of the important aspects of the</p>
Page 58	Page 60
<p>1 a customer user who signed in 2021. Active users 2 were the people that were interacting with the 3 software. 4 Q Okay. Like each individual account, so it could 5 be more than one at a particular customer? 6 A Correct. 7 Q Got it. We can -- yeah. 8 A 34 million 2021 projected ARR, annual recurring 9 revenue. 10 Q What's that one mean? 11 A This is a projection, what we thought the 12 potential for our 2021 annual recurring revenue, 13 which is the subscription revenue that customers 14 would pay us for software services. 15 Q And that's a subset of the total revenue? 16 A That would be part of the total revenue. Yes. 17 Projected part. 18 Q Why is that one carved out specifically here? 19 A Like the others, they're relevant for the type of 20 business we're running. How scaleable are we with 21 users and assets and what we project for our 22 annual recurring revenue. 23 Q So is that a particularly important type of 24 revenue in this industry? 25 A Annual recurring revenue is one of the indicators</p>	<p>1 company because it was a growth indicator. 2 Q Okay. We can go to the next one. 3 A 21 percent, 2018 A, actual, to 2021 P, projected, 4 ARR annual occurring growth compounded annual 5 growth rate. 6 Q Okay. That's -- that's a lot, so you have to 7 explain that one to me. 8 A That's the anticipated or projected growth of the 9 annual recurring revenue. 10 Q Got it. So it's talking about how that 34 million 11 number would be projected to change in the future? 12 A No. That is -- that 34 million -- 13 Q It's talking about how it changed -- 14 A -- represents -- 15 Q -- to get there? 16 A Yeah. 17 Q Oh, okay. 18 A 21 P and 21 P represent to me that this 34 million 19 includes the 21 percent assumption that was made 20 for growth. 21 Q Okay. So -- and that -- I'm guessing the 22 21 percent is kind of an average over that period 23 of 2018 to 2021? 24 A Compounded annual growth rate would be, yes, 25 growth rate average.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 61	Page 63
<p>1 Q Okay. So for 2020, the annual recurring revenue</p> <p>2 would be about 21 percent less than the 34 million</p> <p>3 for the year 2020?</p> <p>4 A I don't know that. It would be an average of what</p> <p>5 would be '18, '19, '20, '21. So that's a</p> <p>6 four-year average, so I don't know what 2020 would</p> <p>7 be.</p> <p>8 Q Okay. Okay. We can go to that 680 number.</p> <p>9 A Approximately 680, that would represent that is</p> <p>10 probably first quarter of 2021 actual customers.</p> <p>11 So approximately 680 customers.</p> <p>12 Q Okay. Total customers?</p> <p>13 A Correct.</p> <p>14 Q And that one, that one even I get. Okay. What's</p> <p>15 the 95 percent?</p> <p>16 A 95 percent 2020 A, which is actual, ARR retention.</p> <p>17 Q How much of the recurring revenue the company</p> <p>18 keeps from year to year?</p> <p>19 A For 2020 it represents the amount of revenue that</p> <p>20 we kept for the annual recurring revenue.</p> <p>21 Q Got it.</p> <p>22 A 95 percent.</p> <p>23 Q And what's that net number score?</p> <p>24 A Is a standard measure of loyalty, and the common</p> <p>25 question there is how likely would you be to</p>	<p>1 things in it.</p> <p>2 Q Got it. And EBITDA, can you just tell me what</p> <p>3 that is?</p> <p>4 A Earnings before interest, taxes, depreciation, and</p> <p>5 amortization.</p> <p>6 Q And earnings are like net profits, basically?</p> <p>7 A It's basically revenue minus expenses equals</p> <p>8 earnings.</p> <p>9 Q Okay. How does the E in EBITDA equate to net</p> <p>10 profits, or how does it compare to net profits?</p> <p>11 A Similar, but what do you mean by net profits?</p> <p>12 Q Well, I don't know. Or net sales, let's say.</p> <p>13 What is that number? Does that figure into an</p> <p>14 EBITDA at all?</p> <p>15 A Revenue, which could also be referred to as sales,</p> <p>16 minus expenses, which is the amount of money we</p> <p>17 pay to service that revenue and then ultimately</p> <p>18 invest in R&amp;D and sales and marketing and general</p> <p>19 administrative, so minus those expenses equals</p> <p>20 earnings.</p> <p>21 Q Okay. Got it. And so that net sales equals</p> <p>22 earnings?</p> <p>23 A Net sales does not equal earnings.</p> <p>24 Q Oh, okay. So how does net sales and -- where does</p> <p>25 net sales figure into earnings?</p>
Page 62	Page 64
<p>1 recommend X, and then you would rate that on a</p> <p>2 scale of 1 to 10.</p> <p>3 Q Is this to a hundred or --</p> <p>4 A It could go -- what was the -- it could go to a</p> <p>5 hundred, yes. Net -- I think it could go to a</p> <p>6 hundred. So you would answer 1 to 10. 9s and 10s</p> <p>7 are promoters, 6 and 7s are neutrals, and less</p> <p>8 than that are detractors. So 52 percent promoter</p> <p>9 score is an indicator of customer loyalty.</p> <p>10 Q Is that a good score?</p> <p>11 A It's a score that is worth sharing to indicate how</p> <p>12 loyal the customers are.</p> <p>13 Q Okay. So these are -- I meant is 52 a good score?</p> <p>14 A Depends what you compare it to.</p> <p>15 Q Okay. Fair enough. Okay. And what's the last</p> <p>16 one?</p> <p>17 A 3.1 million 2020 A, actual, ADJ, which is</p> <p>18 adjusted, EBITDA.</p> <p>19 Q Okay. And what does it mean for it to be</p> <p>20 adjusted?</p> <p>21 A That means there's certain things that the next</p> <p>22 company would not have to incur. So he would</p> <p>23 adjust for those things out.</p> <p>24 Q Okay.</p> <p>25 A And so that adjusted EBITDA does not have certain</p>	<p>1 A What do you mean by net sales?</p> <p>2 Q Well, did the company track its net sales or its</p> <p>3 net income?</p> <p>4 A We had net income.</p> <p>5 Q Okay. Maybe --</p> <p>6 A I don't know what net sales means, though.</p> <p>7 Q Got it. Maybe I was just referring to something</p> <p>8 that doesn't exist. Is the net income the EBITDA?</p> <p>9 A The net income and EBITDA are different.</p> <p>10 Q Okay. How did they relate, if at all?</p> <p>11 A Net income -- well, I don't know. This is where I</p> <p>12 would defer to the CFO and ask questions about how</p> <p>13 net income differs from EBITDA.</p> <p>14 Q I don't mean EBITDA, I just meant the earnings</p> <p>15 part of EBITDA. What is earnings?</p> <p>16 A Earnings is how much is left after you take out</p> <p>17 the expenses from the revenue.</p> <p>18 Q Okay. So I thought that was what net sales was</p> <p>19 too, but maybe I'm wrong and maybe we just need</p> <p>20 to --</p> <p>21 A I don't use net sales as a term.</p> <p>22 Q Oh, okay. How come?</p> <p>23 A I don't know. I just don't.</p> <p>24 Q Okay.</p> <p>25 A I haven't.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 65	Page 67
<p>1 Q Or net income, I should say. Do you use that as a</p> <p>2 term?</p> <p>3 A Net income is a term.</p> <p>4 Q Okay.</p> <p>5 A It is on -- it was on our financial statements,</p> <p>6 yes.</p> <p>7 Q Okay. First bullet point says, "Widen is</p> <p>8 continually ranked by G2 Crowd, Forrester, and</p> <p>9 Gartner as one of the best enterprise-grade</p> <p>10 digital asset management offerings in the market</p> <p>11 today." What are G2 Crowd, Forrester, and</p> <p>12 Gartner?</p> <p>13 A G2 Crowd is a place where customers go to rate the</p> <p>14 software. Forrester and Gartner are analysts.</p> <p>15 Q Okay. And they all thought that Widen Enterprises</p> <p>16 was one of the best enterprise-grade digital asset</p> <p>17 management offerings in the market?</p> <p>18 A Forrester and Gartner thought that. G2 Crowd is</p> <p>19 represented by customers.</p> <p>20 Q Okay. But they ranked -- it says that they also</p> <p>21 ranked you as one of the best enterprise-grade</p> <p>22 digital asset management offerings?</p> <p>23 A Correct.</p> <p>24 Q Okay. Going back to these numbers, how if at all</p> <p>25 did they change from -- and it looks like this</p>	<p>1 changed from the year before, and we'll say</p> <p>2 May 2020?</p> <p>3 MR. CHURCHILL: Objection. Lack of</p> <p>4 foundation.</p> <p>5 BY MR. PALAY:</p> <p>6 Q You were the CEO in May of 2020?</p> <p>7 A Correct.</p> <p>8 Q Okay.</p> <p>9 MR. CHURCHILL: Same objection.</p> <p>10 A I'm not going to be able to remember what that</p> <p>11 looked like.</p> <p>12 Q Okay.</p> <p>13 A Across these.</p> <p>14 Q Do you -- I mean, do you know roughly, like, you</p> <p>15 know, in an estimate?</p> <p>16 A No.</p> <p>17 Q Fair enough. Let's flip to 7917. Well, let's</p> <p>18 just stop at 7911 because it's kind of fun. Are</p> <p>19 these -- these are all, like, brands for the most</p> <p>20 part I recognize. Are these customers of Widen</p> <p>21 Enterprises?</p> <p>22 A They are.</p> <p>23 Q Were they, you know, brand new customers or were</p> <p>24 these customers that have been with Widen for a</p> <p>25 period of time?</p>
Page 66	Page 68
<p>1 was, like, at least footnote two says the 102,000</p> <p>2 number is as of April 2021. So this document I</p> <p>3 would say must have been created at least as of</p> <p>4 April 2021; is that fair?</p> <p>5 A This stat was created. That doesn't necessarily</p> <p>6 indicate the document was created. So that stat</p> <p>7 would have been taken from that time period.</p> <p>8 Q Right. But that stack couldn't get in here before</p> <p>9 April 2021; right?</p> <p>10 A Correct.</p> <p>11 Q Okay. So we know the document was created at</p> <p>12 least as of April of 2021?</p> <p>13 A Yeah. That's -- trying to think of could the</p> <p>14 document have been created --</p> <p>15 Q Oh, yeah. Like it was finalized, like this page</p> <p>16 couldn't have been produced as it is now before</p> <p>17 that number?</p> <p>18 A Right. It would have been incomplete if it would</p> <p>19 have been.</p> <p>20 Q Okay.</p> <p>21 A Yeah.</p> <p>22 Q And I'm sure there were probably iterations over</p> <p>23 time.</p> <p>24 Let's go through those numbers at the top,</p> <p>25 and can you just tell me how if at all they had</p>	<p>1 A I don't know that.</p> <p>2 Q Okay. How did you select the customers to put on</p> <p>3 this page?</p> <p>4 A They are recognizable.</p> <p>5 Q Yeah. Okay. And then let's stop at 7192. Is</p> <p>6 this the executive team that you were referring to</p> <p>7 before?</p> <p>8 A It is.</p> <p>9 Q Okay.</p> <p>10 A Without Reed.</p> <p>11 Q Oh, was Reed on the executive team?</p> <p>12 A Reed was my boss and I referenced him as a part of</p> <p>13 this, but this is the executive team from me down.</p> <p>14 Q Okay. So it's like you, then these five, and then</p> <p>15 above you, Reed?</p> <p>16 A Correct.</p> <p>17 Q Okay. Did any of these people report to Reed?</p> <p>18 A No.</p> <p>19 Q Okay. Did they interact directly with Reed or did</p> <p>20 that all go through you?</p> <p>21 MR. CHURCHILL: Objection. Vague</p> <p>22 as to time frame.</p> <p>23 A When?</p> <p>24 Q Let's say at the time of this document, so like</p> <p>25 April 2021 going back, you know, two years to</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 69	Page 71
<p>1 April of 2019.</p> <p>2 A Can you restate that for me?</p> <p>3 Q I think it would be a tricky question to read back</p> <p>4 so I'll just start -- so April 2019 to April 2021,</p> <p>5 did these five people under you, Deanna, Michael,</p> <p>6 Debby, Jake, and, Ben, did they of them report</p> <p>7 directly to Reed during that period?</p> <p>8 A No.</p> <p>9 Q Okay. Did any of them have direct interactions</p> <p>10 with Reed during that period in their capacity as</p> <p>11 members of the executive team?</p> <p>12 MR. CHURCHILL: Objection. Calls</p> <p>13 for speculation.</p> <p>14 A I don't know.</p> <p>15 Q Okay. So we can continue on to 7917. So this</p> <p>16 page says key investment highlights, and it says</p> <p>17 the last proven entergrade -- enterprise grade</p> <p>18 digital asset management provider that is still</p> <p>19 self-funded. Can you explain what that means?</p> <p>20 A That means we are supporting ourselves without</p> <p>21 external investment.</p> <p>22 Q Okay. And that's -- is that -- why is that</p> <p>23 something that someone who might buy the company</p> <p>24 would want to know?</p> <p>25 A Why is that something --</p>	<p>1 A Growth is important such that we can -- we have a</p> <p>2 good product market fit, we're able to solve the</p> <p>3 market's problems or the customer's problems.</p> <p>4 Q Okay.</p> <p>5 A And then the customers are responding favorably.</p> <p>6 Q And this was the document that you were showing to</p> <p>7 companies that might buy your company; is that</p> <p>8 right?</p> <p>9 A Correct. Eventually.</p> <p>10 Q And they would pay the company money, you know,</p> <p>11 for its stock; right?</p> <p>12 A We didn't go to that level, pay the company money</p> <p>13 for its stock. We --</p> <p>14 Q Well, what does it mean to buy a company?</p> <p>15 A To buy a company, you have to define what is --</p> <p>16 what is being purchased.</p> <p>17 Q As far as I know, you can either buy stock or</p> <p>18 assets. I mean, is there another way?</p> <p>19 A You could buy intellectual property as an asset.</p> <p>20 Yeah. You could -- yeah. So that's what I think.</p> <p>21 It's a stock or an asset. Yeah.</p> <p>22 Q Okay. So whether buying its stock or buys its</p> <p>23 assets, this was the document you were sending to</p> <p>24 companies that might buy Widen Enterprises?</p> <p>25 A This is the document that we were using to explore</p>
Page 70	Page 72
<p>1 Q I should rephrase it. Why is that something you</p> <p>2 wanted to tell potential acquirers of the company?</p> <p>3 A Pride.</p> <p>4 Q Like you guys did this based on your own</p> <p>5 bootstrapping?</p> <p>6 A Correct.</p> <p>7 Q Okay. And that just shows that the company was</p> <p>8 sort of effective?</p> <p>9 A Responsible.</p> <p>10 Q Okay. What do you mean by responsible?</p> <p>11 A That we took great care in how we managed the</p> <p>12 organization and invested in areas that we wanted</p> <p>13 to.</p> <p>14 Q Okay. And there's a couple other bullet points I</p> <p>15 wanted to ask about. Going third from the bottom,</p> <p>16 it says, "Strong overall financial profile and</p> <p>17 balance of solid revenue growth and EBITDA</p> <p>18 margins. Highly attractive recurring revenue</p> <p>19 business model driving strong revenue visibility."</p> <p>20 Why was the recurring revenue business model</p> <p>21 highly attractive in your view?</p> <p>22 A The recurring revenue business model was highly</p> <p>23 attractive because it indicates growth.</p> <p>24 Q Okay. And growth is just -- why is growth</p> <p>25 important?</p>	<p>1 what that would look like. Yes.</p> <p>2 Q Well, you were exploring it not, like, amongst</p> <p>3 yourselves, you were exploring it with those</p> <p>4 companies; right?</p> <p>5 A We were exploring it with potential companies.</p> <p>6 Q Okay. So the people who might buy the company</p> <p>7 received this document?</p> <p>8 A Correct.</p> <p>9 Q Okay.</p> <p>10 A The people who were interested in the company</p> <p>11 would have received this document.</p> <p>12 Q And the people who you work for now who did buy</p> <p>13 the company did receive this document; right?</p> <p>14 A Correct.</p> <p>15 Q Okay. And fair to say when you're selling the</p> <p>16 company, you wanted to sell it for as much money</p> <p>17 as you could sell it for?</p> <p>18 A When we were selling the company, when we were in</p> <p>19 market exploring what that looked like, the desire</p> <p>20 was to have it for maximum possible sale. Yes.</p> <p>21 Maximum possible money.</p> <p>22 Q Okay. And these are the things that you</p> <p>23 highlighted about the company to achieve that</p> <p>24 goal, the things that are in this document?</p> <p>25 A To maximize that.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 73	Page 75
<p>1 Q Yes.</p> <p>2 A Yes.</p> <p>3 Q Okay. Let's go to 79 -- and I guess I should just</p> <p>4 say, so the highly attractive recurring revenue</p> <p>5 business model was something you thought was</p> <p>6 important for potential acquirers to know in order</p> <p>7 for the company to sell for as high a price as it</p> <p>8 could?</p> <p>9 A One of the things.</p> <p>10 Q Yeah. Fair. Let's go to 7933. So this says --</p> <p>11 this slide is titled Award Winning</p> <p>12 Enterprise-Grade Product, and then it's got a</p> <p>13 bunch of what look like awards. Can you just tell</p> <p>14 me what these awards are?</p> <p>15 A The top to bottom, left to right, first two rows</p> <p>16 are awards from G2 Crowd, which is the site that</p> <p>17 captures customers as they rank us. The third row</p> <p>18 is the MarTech breakthrough award, which is an</p> <p>19 award for marketing technology. The GetApp</p> <p>20 category leaders award from 2020, I am not sure.</p> <p>21 The CODiE award from 2019 says Widen named</p> <p>22 software company of the year in SIIA CODiE awards.</p> <p>23 There's another MarTech breakthrough award from</p> <p>24 2019 in the last row.</p> <p>25 Q Are these important in your industry, these types</p>	<p>1 there's a bunch of points around the globe. What</p> <p>2 do those points indicate?</p> <p>3 A This is an Amazon Web Services map that has points</p> <p>4 of data centers.</p> <p>5 Q Oh, so these are just like data centers that the</p> <p>6 company used?</p> <p>7 A Not all data centers were used, but we would have</p> <p>8 used data centers.</p> <p>9 Q Why is this something that the company was</p> <p>10 highlighting?</p> <p>11 A This was -- we were reliant on Amazon Web Services</p> <p>12 for their infrastructure to be able to provide our</p> <p>13 software.</p> <p>14 Q Okay. So you're just -- you're kind of telling</p> <p>15 people, like, we use Amazon's infrastructure and</p> <p>16 that's globally situated?</p> <p>17 A We have a dependency on Amazon, and this is a</p> <p>18 graph of where those data centers are.</p> <p>19 Q Gotcha. Let's keep going. Let's go to 7957.</p> <p>20 Okay. It says, "Customer Overview. Trusted by a</p> <p>21 large, hard to replicate and valuable global</p> <p>22 customer consisting of the most iconic brands in</p> <p>23 the world." What made your customer base hard to</p> <p>24 replicate?</p> <p>25 A That they were prominent, recognizable brands.</p>
Page 74	Page 76
<p>1 of awards?</p> <p>2 MR. CHURCHILL: Objection.</p> <p>3 Ambiguous.</p> <p>4 A Important to whom?</p> <p>5 Q Yeah. Good question. I mean, other -- I mean, I</p> <p>6 guess potential acquirers of the company?</p> <p>7 A These indicate that other organizations view us</p> <p>8 favorably.</p> <p>9 Q Okay. It's a recognized leader in the digital</p> <p>10 asset management space; fair?</p> <p>11 A It's another organization saying that and not us</p> <p>12 saying it.</p> <p>13 Q Got it. And did you -- and was that true, were</p> <p>14 you a leader in the digital asset management space</p> <p>15 at this time?</p> <p>16 A The chart that you're looking at is the G2 chart,</p> <p>17 so according to G2, yes, we were a leader.</p> <p>18 Q Did you just as CEO believe the company was a</p> <p>19 leader?</p> <p>20 A I believed that we were on a trajectory to be a</p> <p>21 leader.</p> <p>22 Q Okay. Had a ways to go?</p> <p>23 A Always progressing.</p> <p>24 Q Okay. Let's flip ahead to 7954. Okay. This</p> <p>25 is -- this says Global Infrastructure, and then</p>	<p>1 Q Okay. These are hard to get as customers?</p> <p>2 A Yes.</p> <p>3 Q And what made that valuable?</p> <p>4 A That it speaks to our ability to serve a</p> <p>5 recognizable brand.</p> <p>6 Q Okay. And that's something you thought that</p> <p>7 potential acquirers would find valuable?</p> <p>8 A It's something that we thought was valuable.</p> <p>9 Q Okay. Let's go to the next page. Okay. So this</p> <p>10 is -- well, you know, I don't want to keep getting</p> <p>11 it wrong, so you tell me, what are these graphs</p> <p>12 showing? And we're on 7958.</p> <p>13 A 7958. The graph on the left-most graph, it says</p> <p>14 annual recurring revenue with a footnote one,</p> <p>15 which defines annual recurring revenue as MRR or</p> <p>16 monthly recurring revenue times 12. Then it goes</p> <p>17 on to say in the analysis, "A customer is</p> <p>18 recognized as one when invoiced for its first</p> <p>19 recurring subscription payment."</p> <p>20 And this represents a comparison between 2018</p> <p>21 actuals in a vertical bar of 19.1 million and then</p> <p>22 represents each year thereafter with projected ARR</p> <p>23 for '21, '22, and '23, and then actuals for '18,</p> <p>24 '19, and '20. The line at the top compares what</p> <p>25 appears to be 2018 with actuals with the</p>



Page 77

1 projections of 2023 and represents a 26 percent  
 2 compounded annual growth rate.  
 3 Q And is that actually like about the compounded  
 4 annual growth rate that you were projecting in  
 5 that 2008 plan?  
 6 A I would need to go back to that plan and --  
 7 Q Let's -- I think it was on 11065.  
 8 A Okay. I'm on it.  
 9 Q So in that change column for software as a service  
 10 business --  
 11 A Yep.  
 12 Q Going forward from 2008, it was projecting about  
 13 an annual change of 26 and a half percent?  
 14 A Did you just say -- did you just say 2008?  
 15 Q Forward from 2008. So -- or I guess 2008's 27.32,  
 16 but then the next three years are all  
 17 26.45 percent. Is the change, is that similar to  
 18 the compounded annual growth rate?  
 19 A That would be -- this is a growth rate in software  
 20 as a service revenue for 2009 to 2010. Yes. In  
 21 that growth rate, this represents a very different  
 22 timeline, but.  
 23 Q Sure. But it looks like you were pretty accurate  
 24 in projecting this?  
 25 A Well, I wouldn't have projected out this far.

Page 78

1 Q Okay. Fair. But at the time you made this  
 2 document, the one we're looking at, the  
 3 confidential information memorandum, you were  
 4 projecting by 2023, that's this year, to reach  
 5 \$60 million in annual recurring revenue?  
 6 A That was the projection that we stated in the SIM.  
 7 Q Did you make it?  
 8 A 2023 --  
 9 Q I guess we're not done.  
 10 A -- is not over.  
 11 Q Okay. Are you on track?  
 12 A This is my current employer, so I want to make  
 13 sure that I'm not revealing --  
 14 MR. CHURCHILL: And we can mark  
 15 this --  
 16 MR. PALAY: Yeah, we can mark the  
 17 transcript attorneys' eyes only.  
 18 MR. CHURCHILL: Yeah. We can mark  
 19 this portion of the transcript attorneys'  
 20 eyes only.  
 21 MR. PALAY: I won't trade on it.  
 22 (THE FOLLOWING PORTION IS CONFIDENTIAL -  
 23 ATTORNEYS' EYES ONLY)  
 24  
 25

Page 79

1 [REDACTED]  
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 19 (END OF CONFIDENTIAL PORTION OF TRANSCRIPT)  
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Page 80

1 BY MR. PALAY:  
 2 Q We can put the business plan away. Let's go to  
 3 7982. Okay. So this says Financial Overview, and  
 4 then it says, "Attractive overall financial  
 5 profile balancing steady, consistent revenue  
 6 growth with EBITDA margins." And then it says  
 7 that it's -- I think it's talking about Widen and  
 8 it says it's a highly attractive recurring revenue  
 9 business model driven -- driving strong revenue  
 10 visibility. What does that -- what does that  
 11 mean?  
 12 A Revenue visibility is connected to growth  
 13 potential, which is, if it's recurring, you have  
 14 visibility into what might be occurring next year.  
 15 Q Okay. It's visibility about what's going to  
 16 happen?  
 17 A Stronger visibility, not -- you don't know.  
 18 Q That's what visibility's referring to, though?  
 19 A Correct.  
 20 Q Okay. Let's go to 7985. So this is -- I guess  
 21 what is this?  
 22 A This is Summary P&L, which is profit and loss.  
 23 Q Okay. Is that like an income statement, or what  
 24 is that?  
 25 A It's a -- yeah. It shows the revenue and the

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 81	Page 83
<p>1 expenses and --</p> <p>2 Q Okay. So it looks like we got 2019 and 2020</p> <p>3 actual numbers and then projected numbers for 2021</p> <p>4 through 2023?</p> <p>5 A Correct.</p> <p>6 Q And I think these are the numbers from that graph</p> <p>7 we were looking at earlier with the projected 2023</p> <p>8 revenue of or annual recurring revenue of 60</p> <p>9 million. Does that look about right?</p> <p>10 A That looks right.</p> <p>11 Q Okay. So for 2019, looks like the annual</p> <p>12 recurring revenue of the company was \$22,783,238?</p> <p>13 A Correct.</p> <p>14 Q And there's a -- and the growth rate below it's</p> <p>15 19 percent. That's compared to the year before?</p> <p>16 A Correct.</p> <p>17 Q Is that a good growth rate, 19 percent?</p> <p>18 MR. CHURCHILL: Objection.</p> <p>19 Ambiguous.</p> <p>20 A Good based on what standard?</p> <p>21 Q Did you consider it strong?</p> <p>22 A I considered it to be consistent with what we were</p> <p>23 trying to accomplish, which was growth.</p> <p>24 Q Okay.</p> <p>25 A There's -- yeah. There's better growth.</p>	<p>1 A Can you separate the questions?</p> <p>2 Q Sure. Did you feel the annual recurring revenue</p> <p>3 was a particularly important metric to highlight</p> <p>4 about the company to potential acquirers?</p> <p>5 A It was one of the important metrics to highlight.</p> <p>6 Q It's the first line on this; right?</p> <p>7 A It is the first line.</p> <p>8 Q Is there a more important metric that you can</p> <p>9 think of?</p> <p>10 A I would say it's the -- also it's the first line</p> <p>11 because that's what is often referred to as top</p> <p>12 line. So it is the revenue. That's how things</p> <p>13 start. Is there a more important metric? It</p> <p>14 depends.</p> <p>15 Q Okay. It's one of the important metrics?</p> <p>16 A It's one of the important metrics.</p> <p>17 Q Okay. And then down at the bottom or near the</p> <p>18 bottom, we have that net income number. And for</p> <p>19 2019, it looks like it was \$270,058. That's a lot</p> <p>20 smaller than \$22,783,238; right?</p> <p>21 A Go back to that one. Can you repeat that.</p> <p>22 Q The net income for 2019 is much smaller than the</p> <p>23 annual recurring revenue; right?</p> <p>24 A The net income is much smaller than the recurring</p> <p>25 revenue. Are you comparing 22.7 million to</p>
Page 82	Page 84
<p>1 Q Sure. And then the next year, 2020, it's</p> <p>2 \$26,052,223 and a 14 percent rate. What did you</p> <p>3 think of that year, was that year -- was that a</p> <p>4 strong year?</p> <p>5 A Actuals in 2020, 2020 was a highly uncertain year,</p> <p>6 so I don't necessarily know what was good or not</p> <p>7 good. I think it was -- it was not as good as the</p> <p>8 year prior.</p> <p>9 Q Sure. Well, I mean, you had more annual recurring</p> <p>10 revenue, but it grew by a lower rate; is that</p> <p>11 right?</p> <p>12 A We had more recurring revenue from 22-7 to 26,</p> <p>13 yes, and that didn't grow as strong as the year</p> <p>14 prior. Yes.</p> <p>15 Q Okay. And again, you break out the annual</p> <p>16 recurring revenue from the rest of the revenue;</p> <p>17 correct?</p> <p>18 A We break that out in addition to breaking out</p> <p>19 other things on the P&amp;L, which is standard.</p> <p>20 Q Yeah. Is that because the annual recurring</p> <p>21 revenue is particularly important or you felt it</p> <p>22 was particularly important to potential acquirers</p> <p>23 of the company?</p> <p>24 MR. CHURCHILL: Objection.</p> <p>25 Compound.</p>	<p>1 270,000?</p> <p>2 Q Correct.</p> <p>3 A Yes, those are different numbers and that is --</p> <p>4 that income is much smaller than ARR.</p> <p>5 Q And for the next year, the net income was negative</p> <p>6 \$500,000, a little bit more?</p> <p>7 A Uh-huh.</p> <p>8 Q And it was projected to be very negative for 2021;</p> <p>9 right?</p> <p>10 A Correct.</p> <p>11 Q Was that a concern to you?</p> <p>12 A This --</p> <p>13 MR. CHURCHILL: Objection. Vague.</p> <p>14 A Can you say more about what concern?</p> <p>15 Q Did you think that was a problem?</p> <p>16 MR. CHURCHILL: Objection. Vague</p> <p>17 as to time frame.</p> <p>18 BY MR. PALAY:</p> <p>19 Q I guess in 2020 when that number went from</p> <p>20 positive 270,000 to negative 500,000, did you view</p> <p>21 that as a problem?</p> <p>22 A I viewed it as part of our path for growth.</p> <p>23 Q Okay. Say more about that. How come?</p> <p>24 A To grow, we would need to invest in certain things</p> <p>25 like R&amp;D and sales and marketing and other</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 85	Page 87
<p>1 activities that sometimes would cost us more than</p> <p>2 what we were earning in revenue. And that would</p> <p>3 be at some point something that we would grow out</p> <p>4 of.</p> <p>5 Q And for 2021, the net income's projected to be</p> <p>6 negative \$3 million; right? A little over,</p> <p>7 \$3,100,000?</p> <p>8 A Correct.</p> <p>9 Q Fair to say if you were valuing this company based</p> <p>10 on its net income, this declining trend from 2019</p> <p>11 to 2021 would not make the company look like its</p> <p>12 value is increasing?</p> <p>13 MR. CHURCHILL: Objection to the</p> <p>14 extent it calls for expert testimony.</p> <p>15 A It would not make it look like the company is --</p> <p>16 can you repeat it? I'm sorry. Can you repeat</p> <p>17 that question?</p> <p>18 Q So, you know, we were talking about how this</p> <p>19 document was used by the company to market itself</p> <p>20 to potential acquirers; right?</p> <p>21 A Uh-huh.</p> <p>22 Q And the goal there was to achieve the highest</p> <p>23 selling price for the company possible; right?</p> <p>24 A Uh-huh.</p> <p>25 Q And this downward trend from 2019 to 2021</p>	<p>1 Q Okay. Without paying Reed any compensation,</p> <p>2 bonus, or fringe?</p> <p>3 A In the next environment. This is adjusting out</p> <p>4 because in this case Reed would not have stayed</p> <p>5 with the organization.</p> <p>6 Q So -- well, I don't know if that's quite accurate.</p> <p>7 So it does it for 2019, which was in the past at</p> <p>8 this point, right, in 2020?</p> <p>9 A Which is to show historically what the company</p> <p>10 would have looked like.</p> <p>11 Q If Reed had not been paid anything?</p> <p>12 A Correct.</p> <p>13 Q Okay. What was the -- what was the purpose of</p> <p>14 showing potential buyers what the company would</p> <p>15 look like if Reed had not been paid anything in</p> <p>16 2019 and 2020?</p> <p>17 A I would add that it's not just that. There's</p> <p>18 several other adjustments that are helpful to line</p> <p>19 item out so that the potential buyer knows the</p> <p>20 things that are not going to be in their future.</p> <p>21 So they could look at the past through a financial</p> <p>22 lens that looks like how it would look going</p> <p>23 forward.</p> <p>24 Q Okay. So let's just focus on this one, though,</p> <p>25 because it looks like by far, the biggest portion</p>
Page 86	Page 88
<p>1 projected in net income, you know, would that --</p> <p>2 would that be something that the company was</p> <p>3 concerned would affect its selling price?</p> <p>4 A It was just a number in the flow of all the other</p> <p>5 numbers. So it was what it was.</p> <p>6 Q Okay. We can come back to that. So let's go to</p> <p>7 7988.</p> <p>8 MR. CHURCHILL: Did you say 88.</p> <p>9 MR. PALAY: Yeah.</p> <p>10 BY MR. PALAY:</p> <p>11 Q So this is an EBITDA Adjustment Detail, and the</p> <p>12 top line says, "Owner executive comp total base</p> <p>13 compensation bonus and fringe with a one-owner</p> <p>14 president founder." Is that referring to Reed?</p> <p>15 A Reed was the owner president. Yes.</p> <p>16 Q Okay. So what does it mean had it says total base</p> <p>17 comp, compensation, bonus and fringe? What does</p> <p>18 that mean in the context of this EBITDA adjustment</p> <p>19 detail?</p> <p>20 A That means Reed's compensation, bonus, and other</p> <p>21 expenses are adjusted out.</p> <p>22 Q What does it mean to adjust those out?</p> <p>23 A It means to show the detail of them and then allow</p> <p>24 your earnings to show what it would look like</p> <p>25 without that.</p>	<p>1 of this adjustment, right, if you go into the</p> <p>2 detail, it says owner executive compensation for</p> <p>3 2019, 1.8 million; for 2020, 3.2 million. Right?</p> <p>4 A 2000 -- yeah, owner executive compensation, 2019</p> <p>5 actual 1.8, 2020 actual 3.2.</p> <p>6 Q Yeah. So you're showing the potential</p> <p>7 acquirers -- so first of all, that 1.8 million and</p> <p>8 3.2 million, that was Reed's total comp,</p> <p>9 compensation, bonus, and fringe for those</p> <p>10 two years 2019 and 2020?</p> <p>11 A I don't -- I can't confirm that right now. I</p> <p>12 don't know.</p> <p>13 Q Okay. I mean, any reason to believe that's not</p> <p>14 accurate?</p> <p>15 A There's -- in addition to Reed, there is another</p> <p>16 executive that would also not continue on, and his</p> <p>17 name was Gary Norris.</p> <p>18 Q Oh, so you think these might be two people</p> <p>19 combined?</p> <p>20 A That's -- that's possible, which is why I am</p> <p>21 saying -- I paused.</p> <p>22 Q Gotcha. Okay. So -- and these numbers are</p> <p>23 positive in this EBITDA adjustment; correct?</p> <p>24 A Which ones?</p> <p>25 Q The 1.8 and the 3.2 million.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 89	Page 91
<p>1 A The 1.8 and 3.2 are positive as in add back. 2 Q Yeah, they're adding back, so they're -- the 3 adjusted EBITDA is that much higher than the 4 actual EBITDA? 5 A Correct. 6 Q Okay. So this increased -- you know, removing 7 Reed's compensation and Gary's essentially 8 increased the EBITDA of the company? 9 A By removing Reed's and Gary's compensation and 10 adding those back, EBITDA would go up. 11 Q By that amount, yeah, okay. And ultimately 12 through this document and your other efforts, 13 Widen Enterprises was purchased by your current 14 employer, Acquia; correct? 15 A Correct. 16 MR. CHURCHILL: Objection. 17 BY MR. PALAY: 18 Q And how much money did Acquia pay for Widen 19 Enterprises? 20 A Acquia along with their private equity partner, 21 which is Vista, paid \$162 million on 22 September 24th, 2021. 23 Q And it bought 100 percent of Widen Enterprises 24 stock? 25 A Correct.</p>	<p>1 A We provided Acquia everything that they asked for. 2 Q So is that a yes or a no? Did you -- was there 3 any information relevant to Widen Enterprises' 4 value that you believe Acquia did not possess? 5 A Say more about the value. 6 Q Well, remember, we're -- I'm defining value as a 7 willing buyer and a willing seller, how much money 8 would change hands over a change of ownership of 9 this item, in this case Widen Enterprises, when 10 neither side is acting under compulsion and both 11 sides have all the relevant information. 12 So, yeah, so that's -- with that definition 13 of value, do you think Acquia had all of the 14 relevant information to that definition of value 15 when it decided to purchase Widen Enterprises for 16 \$162 million? 17 A We provided Acquia all the information about the 18 organization for them to make a determination that 19 they would pay \$162 million. 20 Q What's the distinction you're making between that 21 answer and my question? 22 A I don't know. 23 Q Okay. So -- 24 MR. CHURCHILL: I can help. Calls 25 for speculation.</p>
Page 90	Page 92
<p>1 Q From Widen Enterprises' owner, which was Windy 2 Waters? 3 A Correct. 4 Q Fair to say that \$162 million reflected the value 5 of Widen Enterprises at the date of that purchase? 6 MR. CHURCHILL: Objection. 7 Ambiguous. 8 A \$162 million represented what Acquia was willing 9 to pay for Widen. 10 Q Okay. Was Acquia a willing buyer? 11 A Acquia was a willing buyer. 12 Q Okay. Was Windy Waters a willing seller? 13 A Windy Waters was a willing seller. 14 Q Did Acquia have to your knowledge all of the 15 relevant information about the value of Widen 16 Enterprises? 17 A Acquia had the relevant information about the 18 organization, financials and the like. 19 Q So, I mean, the relevant information for 20 determining the value of the company? 21 A They had what they needed to decide what they were 22 going to pay. 23 Q Okay. Did you view Acquia as having been 24 presented with the relevant information reflecting 25 Widen Enterprises' value?</p>	<p>1 BY MR. PALAY: 2 Q Do you know of information that you believed was 3 relevant to the value of Widen Enterprises that 4 was not given to Acquia before Acquia made its 5 determination to purchase Widen Enterprises? 6 A We provided Acquia everything that they needed. 7 Q Okay. Would you say everything that they needed 8 is the relevant information? 9 MR. CHURCHILL: Object to the 10 extent it calls for speculation as to what 11 Acquia thinks it needed. 12 A Everything that Acquia asked for, they were given. 13 Q Okay. Do you know of any important financial 14 information that was not given to Acquia in 15 connection with its purchase of Widen Enterprises? 16 A Do I know of any financial information that was 17 not given to Acquia. 18 Q Important financial information. 19 A No. 20 Q Okay. So it seems like if Acquia was a willing 21 buyer, Windy Waters was a willing seller, Acquia 22 had as far as you know all of the important 23 financial information about the company and 24 everything it asked for, it seems like we meet all 25 the criteria for my definition of value for Widen</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 93	Page 95
<p>1 Enterprises on the date of that sale; right?</p> <p>2 A We meet the value that Acquia was assigning to</p> <p>3 Widen.</p> <p>4 Q Okay.</p> <p>5 A Yes.</p> <p>6 Q What's different about the value of the company if</p> <p>7 the value is defined by what a buyer is assigning</p> <p>8 to it, you know, what a buyer and a seller's</p> <p>9 determination of value mean? What's different</p> <p>10 about the value of the company and Acquia's value</p> <p>11 of the company?</p> <p>12 A Different buyers would assign different value.</p> <p>13 Q Okay. So I'm -- so you're saying the value might</p> <p>14 have been higher?</p> <p>15 A I'm saying the value might have been different.</p> <p>16 Q Could the value have been lower than what Acquia</p> <p>17 was willing to pay?</p> <p>18 A The value that Acquia paid was the value that</p> <p>19 Acquia saw.</p> <p>20 Q Right. But we're broadening the definition of</p> <p>21 value because, you know, I think one of the</p> <p>22 important things about a concept like value is</p> <p>23 that it's transportable, right? You know, it's</p> <p>24 not just talking about what one party thinks, it's</p> <p>25 defining this concept, I don't want to say this</p>	<p>1 date, or at least the value as of that date?</p> <p>2 MR. CHURCHILL: Same objection.</p> <p>3 Calls for expert testimony.</p> <p>4 I think this witness has provided his</p> <p>5 answer on what counsel is asking is an</p> <p>6 opinion of an economist as to the definition</p> <p>7 of fair market value, and I don't know that</p> <p>8 this witness can testify to that.</p> <p>9 MR. PALAY: Well, the witness seems</p> <p>10 to be makes a distinction; I'm just asking</p> <p>11 what the distinction is.</p> <p>12 MR. CHURCHILL: I think the witness</p> <p>13 has said that a different buyer could pay a</p> <p>14 different amount of money. So if a different</p> <p>15 buyer was there, it may assign a lower or a</p> <p>16 higher value. I think that's clear on his</p> <p>17 testimony. \$162 million was what this buyer</p> <p>18 paid. If it was a different company, it</p> <p>19 would have assigned a different value through</p> <p>20 negotiation.</p> <p>21 You can keep asking the questions of the</p> <p>22 witness, but I think that's what's been</p> <p>23 stated multiple times now.</p> <p>24 MR. PALAY: Okay. Thank you for</p> <p>25 that. I will keep asking the questions,</p>
Page 94	Page 96
<p>1 value, by what two parties, you know, with equal</p> <p>2 information or relevant information meet at;</p> <p>3 right?</p> <p>4 MR. CHURCHILL: Object to the</p> <p>5 extent it calls for expert testimony.</p> <p>6 A I understand.</p> <p>7 Q Do you agree with that I said?</p> <p>8 A You're going to have to repeat it. It was a</p> <p>9 rather lengthy statement.</p> <p>10 Q So I don't understand how the value of -- the fair</p> <p>11 market value of Widen Enterprises could be lower</p> <p>12 than what Acquia was willing to pay if -- and did</p> <p>13 pay if Acquia was a willing buyer, Windy Waters</p> <p>14 was a willing seller, both had all the relevant</p> <p>15 information, and neither one was compelled to the</p> <p>16 deal. Can you explain to me how that could be</p> <p>17 possible?</p> <p>18 MR. CHURCHILL: Same objection.</p> <p>19 Calls for expert testimony. You can respond.</p> <p>20 A I think Acquia saw that value in us, and another</p> <p>21 buyer could have even seen other value in us that</p> <p>22 was different than what Acquia saw. So the value</p> <p>23 is dependent on what the buyer's situation is.</p> <p>24 Q Sure. But doesn't the fact that Acquia saw that</p> <p>25 value by definition make it the value as of that</p>	<p>1 though.</p> <p>2 MR. CHURCHILL: Okay.</p> <p>3 MR. PALAY: So could you read back</p> <p>4 the question.</p> <p>5 (Record was read back as requested.)</p> <p>6 Q: But doesn't the fact that</p> <p>7 Acquia saw that value by definition make it</p> <p>8 the value as of that date, or at least the</p> <p>9 value as of that date?</p> <p>10 A It makes it the value that Acquia saw.</p> <p>11 Q Okay. Did you believe that was an accurate</p> <p>12 reflection of the value as of that date?</p> <p>13 A I believed that was because Acquia told us what</p> <p>14 the value they saw in us through that number, that</p> <p>15 that was what Acquia was willing to pay.</p> <p>16 Q And that was what you were willing to accept?</p> <p>17 A That was what Reed was willing to accept. Yes.</p> <p>18 Q So it was just up to Reed, you didn't get a say in</p> <p>19 that?</p> <p>20 A Ultimately it's his decision.</p> <p>21 Q Did you agree with that decision?</p> <p>22 A Did I agree with that decision. That's what Reed</p> <p>23 wanted. Reed agreed to that because that was his</p> <p>24 call. So whether or not I agreed or disagreed --</p> <p>25 Q But I'm just asking did you agree?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 97	Page 99
<p>1 A Did I agree that Reed should sell at that price?</p> <p>2 Q Yes.</p> <p>3 A I agreed that for Acquia to say they're willing</p> <p>4 pay \$162 million for Widen, that that was</p> <p>5 something Reed should consider.</p> <p>6 Q Okay. Did you think it was something Reed should</p> <p>7 execute on?</p> <p>8 A Did I think it was something Reed should execute</p> <p>9 on. Reed executed on it, and whether or not I</p> <p>10 agreed with it, I don't know, did I agree with it</p> <p>11 at the time. Trying to put myself back in that</p> <p>12 spot. Did I agree or disagree with it? I agreed</p> <p>13 with it because Acquia was also a good home for</p> <p>14 Widen.</p> <p>15 Q Did you think that Widen could sell for more than</p> <p>16 162 million?</p> <p>17 A I didn't know.</p> <p>18 Q But did you think that it could?</p> <p>19 A I didn't know.</p> <p>20 Q Did you believe that it might be able to sell for</p> <p>21 a higher price?</p> <p>22 A I don't know.</p> <p>23 Q You don't know what you believed?</p> <p>24 A I don't know what Widen could have sold for at any</p> <p>25 point in the future. I don't know that.</p>	<p>1 possibility exists that we would have a different</p> <p>2 buyer for a different amount.</p> <p>3 Q Okay. Did you counsel Reed on whether to sell the</p> <p>4 company at any particular point in time?</p> <p>5 A I shared with Reed that there was a transaction</p> <p>6 that was very relevant in 2020, August 24th, to be</p> <p>7 exact, and that was a -- an awareness for Reed to</p> <p>8 understand what this market -- how this market was</p> <p>9 performing.</p> <p>10 Q Okay. You were just giving Reed the information</p> <p>11 for Reed to make an informed decision?</p> <p>12 A I was giving information to Reed about what other</p> <p>13 organizations -- what was happening at other</p> <p>14 organizations so that he was aware.</p> <p>15 Q Okay. Did you think Reed might not have been</p> <p>16 aware of how much money he could sell Widen</p> <p>17 Enterprises for?</p> <p>18 A I don't know what Reed was aware of.</p> <p>19 Q Okay. So why did you share the information with</p> <p>20 him?</p> <p>21 A I would share information with Reed to make sure</p> <p>22 that he knew we were headed in the right</p> <p>23 direction.</p> <p>24 Q Okay. So tell me, going back a year before this</p> <p>25 document to May 2020, how do you think the value</p>
Page 98	Page 100
<p>1 Q Sure. I'm just asking at the time did you think</p> <p>2 that was a possibility?</p> <p>3 A I think if we were to entertain different buyers</p> <p>4 at different points in time, we would see</p> <p>5 different values.</p> <p>6 Q Okay. Would any of them have been higher than 162</p> <p>7 million?</p> <p>8 A It's -- well, they would be different. Could some</p> <p>9 of them have been higher, could some of them have</p> <p>10 been lower, yeah.</p> <p>11 Q Sure.</p> <p>12 A It would be different.</p> <p>13 Q What points in time do you think that the sale</p> <p>14 price would have been higher than 162 million?</p> <p>15 A What points in time would the sale price have been</p> <p>16 higher than 162 million?</p> <p>17 Q I should say points in time and different buyers</p> <p>18 were the two factors you identified?</p> <p>19 A Yeah. I think a different buyer -- let's see. I</p> <p>20 think about -- it depends on the growth. It</p> <p>21 depends on how we were growing. It depends on our</p> <p>22 financial performance. It depends how we were</p> <p>23 continuing our reputation. I would say at some</p> <p>24 point in the future, if we were to continue</p> <p>25 growing, increasing reputation, that the</p>	<p>1 of the company changed between May 2020 and the</p> <p>2 creation -- and the sale of, you know, Widen</p> <p>3 Enterprises in September 2021?</p> <p>4 A How do I think the value of the company changed</p> <p>5 from May of 2020 until September of 2021?</p> <p>6 MR. CHURCHILL: Objection.</p> <p>7 Ambiguous. You can answer.</p> <p>8 A I didn't -- I didn't know the value of the company</p> <p>9 in May of 2020. That wasn't something we were</p> <p>10 monitoring or looking at. We were looking at</p> <p>11 growth. And in May of 2020 in particular, which</p> <p>12 was two months after COVID, managing uncertainty.</p> <p>13 That's what -- that was May of 2020.</p> <p>14 Q I'm just asking you now sitting here today,</p> <p>15 though, you know, how you think those -- the value</p> <p>16 at those two points in time changed?</p> <p>17 A I don't know.</p> <p>18 Q Do you think the value of Widen Enterprises</p> <p>19 increased between May 2020 and September 2021?</p> <p>20 A I think it depends on the buyer.</p> <p>21 Q Okay. Do you think it decreased?</p> <p>22 A I think it depends on the buyer.</p> <p>23 Q So to some buyers, it might have decreased?</p> <p>24 A Compared to what?</p> <p>25 Q To May 2021 value, September 2000 -- or, sorry,</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 101	Page 103
<p>1 May 2020 value, September 2021 value, in some</p> <p>2 context, it might have decreased from May 2020 to</p> <p>3 September 2021?</p> <p>4 MR. CHURCHILL: Objection. Lack of</p> <p>5 foundation.</p> <p>6 A Possibly.</p> <p>7 Q Okay. Do you think it increased by more than</p> <p>8 \$100 million?</p> <p>9 MR. CHURCHILL: Same objection.</p> <p>10 A Do I think the value of Widen increased by</p> <p>11 \$100 million between May of 2020 and September of</p> <p>12 2021?</p> <p>13 MR. CHURCHILL: Also calls for</p> <p>14 expert testimony. He can answer.</p> <p>15 A I don't know.</p> <p>16 Q Do you think that's likely?</p> <p>17 MR. CHURCHILL: Same objection.</p> <p>18 A I don't know.</p> <p>19 Q It might have?</p> <p>20 A I don't know.</p> <p>21 Q Do you think it increased by \$150 million?</p> <p>22 A I don't know.</p> <p>23 MR. CHURCHILL: Same objections.</p> <p>24 BY MR. PALAY:</p> <p>25 Q You don't know if the value of the company that</p>	<p>1 sale to Acquia?</p> <p>2 A I would not estimate the value of Widen. I would</p> <p>3 know the value that other organizations -- I would</p> <p>4 guesstimate the value of other organizations in</p> <p>5 our market.</p> <p>6 Q Okay. But never of Widen?</p> <p>7 A Not of Widen.</p> <p>8 Q Okay. You never told Reed the fair market -- the</p> <p>9 market value of Widen Enterprises is around X</p> <p>10 number on a given date?</p> <p>11 A I would tell Reed based on my estimates of other</p> <p>12 organizations who were in our market, and I would</p> <p>13 take what those organizations were doing, I would</p> <p>14 estimate their revenues, back of the napkin, and</p> <p>15 then I would apply it to ours as a guess.</p> <p>16 Q Okay. So you'd apply it to Widen Enterprises and</p> <p>17 give a guess of Widen Enterprises' value?</p> <p>18 MR. CHURCHILL: Objection.</p> <p>19 Mischaracterizes testimony.</p> <p>20 A I would take what I guessed to be what was going</p> <p>21 on with someone else in our industry and then I</p> <p>22 would apply that to Widen numbers.</p> <p>23 Q And the result would be a guess about Widen's</p> <p>24 value?</p> <p>25 MR. CHURCHILL: Objection.</p>
Page 102	Page 104
<p>1 you ran increased by more than \$150 million in a</p> <p>2 year?</p> <p>3 A Correct.</p> <p>4 Q So it might have?</p> <p>5 A I don't know.</p> <p>6 Q So it's possible?</p> <p>7 MR. CHURCHILL: Objection.</p> <p>8 Mischaracterizes testimony.</p> <p>9 A I don't know.</p> <p>10 Q What would you need to know to know that?</p> <p>11 MR. CHURCHILL: Objection. Vague.</p> <p>12 A What would I need to know to know that the value</p> <p>13 changed over that time?</p> <p>14 Q To know if it changed by \$150 million.</p> <p>15 A There would have had to have been a potential</p> <p>16 buyer.</p> <p>17 Q So without a potential buyer, there is no value?</p> <p>18 A Without a potential buyer, there is no way to</p> <p>19 determine what the change would be. And there</p> <p>20 were no potential buyers in 2020 because there was</p> <p>21 no -- there was no -- there was no go to market</p> <p>22 motion for anything related to selling the</p> <p>23 business, so we did not know.</p> <p>24 Q So does the fact -- okay. So did you ever</p> <p>25 estimate the value of Widen Enterprises before the</p>	<p>1 Ambiguous.</p> <p>2 A It would be a indication that we're headed in the</p> <p>3 right direction, not the value of Widen.</p> <p>4 Q Never used that word, value?</p> <p>5 A I don't know about that.</p> <p>6 Q Okay. So you might have used that word, value,</p> <p>7 about referring to Widen?</p> <p>8 MR. CHURCHILL: Objection. Lack of</p> <p>9 foundation.</p> <p>10 A I don't know.</p> <p>11 Q Okay. Well, you said you reviewed documents in</p> <p>12 anticipation and preparation of this deposition;</p> <p>13 right?</p> <p>14 A Some documents, yeah.</p> <p>15 Q Did any of them assign a value or an estimated</p> <p>16 value to Widen Enterprises by you?</p> <p>17 MR. CHURCHILL: Objection.</p> <p>18 Ambiguous.</p> <p>19 A I don't know that I'd used the term value.</p> <p>20 Q Okay. You can't think of any that did?</p> <p>21 A I don't recall.</p> <p>22 Q Okay.</p> <p>23 MR. PALAY: I think we can take a</p> <p>24 break.</p> <p>25 THE VIDEOGRAPHER: We're going off</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 105	Page 107
<p>1 the record. The time is 11:45 a.m. This is</p> <p>2 the end of media unit number two.</p> <p>3 (A recess is taken from 11:45 a.m. to 12:33 p.m.)</p> <p>4 THE VIDEOGRAPHER: We're going back</p> <p>5 on the record. The time is 12:33 p.m. This</p> <p>6 is the beginning of media unit number three.</p> <p>7 BY MR. PALAY:</p> <p>8 Q Welcome back. Before the break, we were having a</p> <p>9 discussion about the concept of value and Widen</p> <p>10 Enterprises' value at different points in time.</p> <p>11 Do you recall that?</p> <p>12 A Uh-huh.</p> <p>13 Q And you were saying -- or correct me if I'm wrong,</p> <p>14 the way I understood your testimony was that you</p> <p>15 don't know if \$162 million was the fair market</p> <p>16 value of Widen Enterprises on the date it sold to</p> <p>17 Acquia because other buyers might have paid more</p> <p>18 or less?</p> <p>19 A My testimony was that 162 million was what Acquia</p> <p>20 was willing to pay Widen and that other buyers may</p> <p>21 have been willing to pay something different.</p> <p>22 Q Okay. Do you have any reason to believe that the</p> <p>23 fair market value of Widen Enterprises on the date</p> <p>24 that Acquia purchased it was less than</p> <p>25 \$162 million?</p>	<p>1 changed by \$150 million between May 2020 and</p> <p>2 September 2021?</p> <p>3 A Right. I don't know. Correct.</p> <p>4 Q Is there anything -- is there any information that</p> <p>5 you could review that would tell you whether the</p> <p>6 fair market value of Widen Enterprises changed by</p> <p>7 \$150 million between May 2020 and September 2021?</p> <p>8 A Is there any information that I could review that</p> <p>9 would tell me that? Is that --</p> <p>10 Q Yeah.</p> <p>11 A Okay. No. Because -- well, in May of 2020, there</p> <p>12 was no willingness to sell and there was no buyer,</p> <p>13 and the combination of that is why I don't know.</p> <p>14 So we would have to make up that.</p> <p>15 Q I guess, yeah. So I suppose you could assume the</p> <p>16 same company, but a willing seller of the company</p> <p>17 and then, you know, would that change your answer?</p> <p>18 A I would have to -- roll that back to me slower.</p> <p>19 Q Assume the company is the same but the seller --</p> <p>20 but there is an intention to sell in May 2020.</p> <p>21 Would that change your answer?</p> <p>22 A Well, there is no intention to sell in May of</p> <p>23 2020.</p> <p>24 Q Right. That's the part I'm asking you to assume.</p> <p>25 A So if we were to assume that there was a seller?</p>
Page 106	Page 108
<p>1 MR. CHURCHILL: Objection to the</p> <p>2 extent it calls for expert testimony.</p> <p>3 A I don't know.</p> <p>4 Q So do you have any reason to believe that?</p> <p>5 A I know that Acquia paid 162 million for Widen on</p> <p>6 September 24th, 2021.</p> <p>7 Q Okay. And are you aware of --</p> <p>8 A So --</p> <p>9 Q Oh, sorry. Go ahead.</p> <p>10 A No, go ahead.</p> <p>11 Q Are you aware of any information that would</p> <p>12 suggest to you that that amount did not represent</p> <p>13 the fair market value?</p> <p>14 MR. CHURCHILL: Same objection.</p> <p>15 A I don't know. I'm not -- that's not my expertise,</p> <p>16 so I don't know.</p> <p>17 Q Okay. And I was asking you about the value back</p> <p>18 in May 2020, if you recall.</p> <p>19 A I recall.</p> <p>20 Q And you were saying you don't know what that value</p> <p>21 is?</p> <p>22 A Correct.</p> <p>23 Q And you were saying you don't know whether the</p> <p>24 value of Widen Enterprises, and I'm talking about</p> <p>25 the fair market value of Widen Enterprises,</p>	<p>1 Q Uh-huh.</p> <p>2 A We were in the active selling mode in May of 2020?</p> <p>3 Q Yeah.</p> <p>4 A And there was an active buyer --</p> <p>5 Q Yeah.</p> <p>6 A -- as well? We could make those things up.</p> <p>7 Q Sure. So let's assume these two things. Do you</p> <p>8 have any reason to believe that the value changed</p> <p>9 by \$150 million between May 2020 and</p> <p>10 September 2021, assuming a willing seller and a</p> <p>11 willing buyer in May of 2021 -- May of 2020?</p> <p>12 MR. CHURCHILL: Objection.</p> <p>13 Improper hypothetical. Calls for expert</p> <p>14 testimony.</p> <p>15 A I have -- yeah, I can't answer. I have a hard</p> <p>16 time making up.</p> <p>17 Q You can't -- it wouldn't change your --</p> <p>18 A It just wouldn't happen. Right. It wasn't a</p> <p>19 thing, so. In May of 2020 it was also -- yeah, if</p> <p>20 I put myself in May of 2020, that was a way</p> <p>21 different time. That was -- that was the height</p> <p>22 of -- that was the height of the COVID time. To</p> <p>23 even fathom thinking about or making up that we</p> <p>24 were selling, in May of 2020, that wasn't --</p> <p>25 that's not even a possibility.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 109	Page 111
<p>1 Q So do you have any idea of the fair market value 2 of Widen Enterprises in May of 2020? 3 A Do I have any idea of the fair market value of 4 Widen Enterprises in May of 2020? We were not 5 willing to sell. There was no desire to sell. 6 There was not a willing buyer, and therefore 7 there's no market valuation at that time. 8 Q Okay. So your testimony is that in May of 2020, 9 Widen Enterprises had no fair market value? 10 A That wasn't the focus. We were focused on the 11 business at that time, especially -- I would 12 emphasize again, especially May of 2020. We're -- 13 all we were thinking about was how are we 14 navigating this particular uncertainty, which was 15 remote employees, which was uncertainty from what 16 we have as the objective, which is growth, and 17 what happens to the organization given the risk 18 that we had at that time, which was significant 19 based on the customer agreements that we had. 20 So, like, I'm -- I'm trying to put myself 21 back in May of 2020. The furthest thing from our 22 mind was valuation, because I was worried about 23 survival. I was worried about what are we going 24 to do if all the customers cancel their contracts. 25 That was my concern at that time. So I can't --</p>	<p>1 Enterprises was less than \$10 million in May of 2 2020? 3 MR. CHURCHILL: Objection. Calls 4 for speculation. 5 A I can say I don't know. 6 Q Okay. Did you have any position at Windy Waters? 7 A I did not. 8 Q Okay. And you were -- but you were a shareholder 9 of Windy Waters? 10 A Correct. 11 Q When did you become a shareholder of Windy Waters? 12 A I don't remember. 13 Q Do you remember how many times you purchased or 14 were granted shares in Windy Waters? 15 A I don't remember. 16 Q Do you remember if that was -- if you were -- 17 became a shareholder before you became CEO or 18 after? 19 A I don't remember. 20 Q Okay. Did you have any -- did you play any role 21 with respect to the operations of Windy Waters? 22 A No. 23 Q Did you oversee anybody who did play a role in the 24 operations of Windy Waters? 25 A There was -- well, the CFO of Widen Enterprises</p>
Page 110	Page 112
<p>1 Q So you have no conception of -- 2 A Wasn't even a thought. 3 Q Okay. Do you believe that the value was less than 4 \$10 million in May of 2020? 5 MR. CHURCHILL: Objection. Calls 6 for expert testimony. You can answer. 7 A I don't know what the value was in May of 2020. 8 It wasn't on my mind. I was not thinking value. 9 Q Okay. So sitting here today, knowing what you 10 know today, do you -- could you say you have a 11 sincere belief that the value was less than 12 \$10 million in May of 2020? 13 MR. CHURCHILL: Same objection. 14 A That's a -- that's a hypothetical to go back and 15 apply current knowledge to that time, which it 16 wasn't even a -- 17 Q I don't think that's a hypothetical. I'm just 18 asking you to apply current knowledge to that 19 time. I'm not asking you to assume anything. 20 A Well, I wasn't -- yeah, I wasn't thinking about 21 that at the time. 22 Q No, I'm asking you today, though. 23 A Repeat the question. 24 Q Sitting here today, can you say that you sincerely 25 believed -- believe that the value of Widen</p>	<p>1 had a role at Windy Waters. I oversaw Mike in his 2 role as the CFO of Widen Enterprises. So not in 3 his capacity at Windy Waters. 4 Q Okay. Did Mike ever report to you, you know, what 5 he was doing in his capacity at Windy Waters? 6 A I was aware of some things, but not a reporting to 7 me. 8 Q Okay. How did you become aware? 9 A He would tell me certain things. 10 Q Okay. Did you ask certain things too? 11 A Yeah, I would ask for follow-ups on certain 12 things. 13 Q Okay. What kind of things? 14 A Well, for example, when we were responding to 15 Stacy's request to redeem her shares, I had a 16 follow-up with him asking about the status of 17 that. So that's an example of a follow-up that I 18 made. 19 Q Okay. And you refer to Stacy's request to redeem 20 her shares. Tell me what you know about that. 21 A I know that she reached out to us, and I know that 22 Reed wanted to help his sister, and I know that we 23 then offered to purchase her shares, and I know 24 that she accepted that. That's what I know. 25 Q Do you know if she reached out and requested that</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 113	Page 115
<p>1 the company buy all of her shares?</p> <p>2 A I don't know.</p> <p>3 Q You don't know?</p> <p>4 A No.</p> <p>5 Q Did you ever ask?</p> <p>6 A No.</p> <p>7 Q Okay. Are you assuming that she requested to have</p> <p>8 the company purchase all of her shares?</p> <p>9 A I don't know.</p> <p>10 Q Okay. Did you ever attend any meetings as a</p> <p>11 shareholder of Windy Waters?</p> <p>12 A No.</p> <p>13 Q To your knowledge were any shareholder meetings of</p> <p>14 Windy Waters shareholders ever held?</p> <p>15 A I don't know.</p> <p>16 Q Okay. You're not aware of any?</p> <p>17 A No. I'm not sure.</p> <p>18 Q Did you ever become aware of any meetings of</p> <p>19 executives of Windy Waters?</p> <p>20 A I don't know. No. I wasn't made aware of.</p> <p>21 Q How about any meetings of the board of directors</p> <p>22 of Windy Waters?</p> <p>23 A No. Wasn't involved.</p> <p>24 Q Okay. But even though Windy Waters owned the</p> <p>25 company that you were the CEO of; right?</p>	<p>1 Q Even though you were a shareholder?</p> <p>2 A Yep. I wasn't involved with those. I didn't have</p> <p>3 a role with Windy Waters.</p> <p>4 Q Okay. Even -- you didn't get to vote your shares</p> <p>5 in Windy Waters?</p> <p>6 A Not that I recall.</p> <p>7 Q Okay. To your knowledge were those decisions made</p> <p>8 by Reed?</p> <p>9 MR. CHURCHILL: Objection. Calls</p> <p>10 for speculation.</p> <p>11 A I don't know. I wasn't involved.</p> <p>12 Q How about Widen Enterprises, did that have a board</p> <p>13 of directors?</p> <p>14 A Early on, Reed put the board together, yeah.</p> <p>15 Q Okay. And how long did that board exist for?</p> <p>16 A I don't know.</p> <p>17 Q Were you on the board?</p> <p>18 A I was not on the board.</p> <p>19 Q Did you attend board meetings?</p> <p>20 A Yes.</p> <p>21 Q Okay. Who were at -- who was at those meetings?</p> <p>22 A A local business entrepreneur, his name is Ben</p> <p>23 Scharff; the bank, Jim Hegenbarth, Park Bank; and</p> <p>24 Baker Tilly, representative from Baker Tilly.</p> <p>25 Q Okay. And do you know in what capacity those</p>
Page 114	Page 116
<p>1 A Correct.</p> <p>2 Q So how would Windy Waters as the shareholder of</p> <p>3 Widen Enterprises communicate its intentions,</p> <p>4 requests, you know, any of that to you as CEO of</p> <p>5 Widen Enterprises?</p> <p>6 A I reported to Reed as the chairman, and so it</p> <p>7 would have been through Reed and his direction.</p> <p>8 Q Okay. So everything you knew about Windy Waters'</p> <p>9 exercise of its rights as a shareholder at Widen</p> <p>10 Enterprises came through Reed?</p> <p>11 A Can you repeat that question.</p> <p>12 (Record was read back as requested)</p> <p>13 A I didn't know of any rights of shareholders. So</p> <p>14 if there was anything Windy Waters related that I</p> <p>15 needed to know about, it would have come from</p> <p>16 Reed, but those things were not part of that</p> <p>17 dialogue.</p> <p>18 Q Okay. I mean, are you aware that shareholders</p> <p>19 have rights in companies?</p> <p>20 A I'm aware that shareholders have rights.</p> <p>21 Q Okay.</p> <p>22 A And I was a shareholder, as well, and had rights.</p> <p>23 Q Sure. And how did Windy Waters decide how to vote</p> <p>24 its shares in Widen Enterprises?</p> <p>25 A I don't know.</p>	<p>1 individuals attended those meetings?</p> <p>2 A Can I have a couple more because Reed, Mike, and</p> <p>3 Gary Norris were also a part of that. Those were</p> <p>4 three additional people who were part of that</p> <p>5 board. So, I'm sorry, can you repeat that</p> <p>6 question.</p> <p>7 Q So all the people you mentioned, were those</p> <p>8 directors of that company?</p> <p>9 A I don't know what capacity they served in.</p> <p>10 Q Okay.</p> <p>11 A I knew that I was responsible for reporting out to</p> <p>12 them.</p> <p>13 Q You reported to this board?</p> <p>14 A I reported to Reed as the chairman of the board,</p> <p>15 and Reed assembled this group, and then I would</p> <p>16 report up what the organization was doing in terms</p> <p>17 of activities.</p> <p>18 Q You reported to the group?</p> <p>19 A I reported to Reed directly as an org structure.</p> <p>20 Yes. He was my boss, so I reported to Reed. I</p> <p>21 would present to that board.</p> <p>22 Q Okay.</p> <p>23 A When it was in existence.</p> <p>24 Q When did it stop being in existence?</p> <p>25 A I don't know.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 117	Page 119
<p>1 Q You have no idea?</p> <p>2 A No, I don't.</p> <p>3 Q Was it last year?</p> <p>4 A No, it was not last year.</p> <p>5 Q Was it before 2020?</p> <p>6 A Did it stop existing before 2020? Yes.</p> <p>7 Q Did it stop existing before 2018?</p> <p>8 A Yes.</p> <p>9 Q Before 2015?</p> <p>10 A I don't know.</p> <p>11 Q Okay. So before 2017?</p> <p>12 A I don't know.</p> <p>13 Q And do you know what caused that board to stop existing?</p> <p>14 A No.</p> <p>15 Q Who appointed you as the CEO of Widen Enterprises?</p> <p>16 A Reed.</p> <p>17 Q Okay. And in his capacity as what?</p> <p>18 A Chairman.</p> <p>19 Q Chairman of what?</p> <p>20 A Of the board.</p> <p>21 Q Okay. So as chairman of the board, he appointed you the CEO?</p> <p>22 A Correct.</p> <p>23 Q Okay. Do you know if the board specifically</p>	<p>1 Q Do you know what she was doing at the companies?</p> <p>2 A When I would see her, she would be visiting with her daughter-in-law, Julie Randall, who was employed and still is employed as a sales rep for the organization. So she would be visiting and then I would see her, and we had an open format as a floor layout and I would see her, and that was the capacity that I saw her in.</p> <p>3 Q Did you ever meet with Stacy regarding Windy Waters at all?</p> <p>4 A No.</p> <p>5 Q When Stacy would come, did you meet with her?</p> <p>6 A I would socialize with her. I didn't have a formal meeting with her. No.</p> <p>7 Q Did you report any information about Widen Enterprises or Windy Waters to her?</p> <p>8 A I did not.</p> <p>9 Q Do you know if anyone else did?</p> <p>10 A I don't know.</p> <p>11 Q So Reed was your direct supervisor at Widen Enterprises?</p> <p>12 A Correct.</p> <p>13 Q Okay. And he set your compensation?</p> <p>14 A Correct.</p> <p>15 Q And in 2019 and 2020, what was that compensation?</p>
Page 118	Page 120
<p>1 authorized him to do that?</p> <p>2 A I do not.</p> <p>3 Q Who elected the board members of Widen Enterprises?</p> <p>4 A Reed appointed the board members.</p> <p>5 Q Okay. So they weren't elected?</p> <p>6 A Yeah. They were -- yeah, they were -- they were not elected, they were appointed, and Reed appointed them.</p> <p>7 Q Okay. Did Stacy Randall ever attend any of the board meetings of the board of Widen Enterprises?</p> <p>8 A No.</p> <p>9 Q Do you know if she ever attended any meetings at Widen Enterprises ever?</p> <p>10 A I don't know.</p> <p>11 Q You never saw her at a meeting?</p> <p>12 A No.</p> <p>13 Q How often did you see Stacy at Widen Enterprises?</p> <p>14 A A few times.</p> <p>15 Q Like under ten?</p> <p>16 A I don't know.</p> <p>17 Q Like how long in between each time would you say like you -- it would be between when you saw Stacy?</p> <p>18 A I don't know.</p>	<p>1 A My compensation?</p> <p>2 Q Yeah.</p> <p>3 A If I recall, my compensation, my wages being about 500,000.</p> <p>4 Q Total?</p> <p>5 A There was a bonus provided in 2020 that would have made that higher than that.</p> <p>6 Q Oh, okay. So just in wages, about 500,000?</p> <p>7 A About that.</p> <p>8 Q Okay. Do you know if Reed took any compensation in his capacity as chairman at Widen Enterprises?</p> <p>9 A Yeah, we paid Reed compensation for his role as chairman. Yes.</p> <p>10 Q Were you aware of how much compensation that was?</p> <p>11 A Approximately. We would pay him comp of about -- well, wages about a million or a little bit more.</p> <p>12 Q Okay. In 2019 and 2020?</p> <p>13 A I don't know how -- I don't know if that was true for both years, but I know it was over a million.</p> <p>14 Q Okay. What were Reed's day-to-day responsibilities as chairman?</p> <p>15 MR. CHURCHILL: Objection. Vague.</p> <p>16 A His responsibility was me. I mean, he was overseeing me as chairman. I was his responsibility. So his activities were related to</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 121	Page 123
<p>1 my performance and connections with me.</p> <p>2 Q Okay. When you say his activities were related to</p> <p>3 your performance and his connection with you, what</p> <p>4 were those activities?</p> <p>5 A What time period are we talking about?</p> <p>6 Q Let's stick with 2019 and 2020.</p> <p>7 A Okay. So his activities with me, he would be</p> <p>8 involved strategically with the organization in</p> <p>9 terms of what direction are we going. So, for</p> <p>10 example, in that time period, we were expanding</p> <p>11 another product and he was participating in that</p> <p>12 and advising on that.</p> <p>13 There was also his involvement, I don't</p> <p>14 recall when this was, but he would get involved</p> <p>15 with banking and tax firms when we were -- he</p> <p>16 would have a relationship with those, and then</p> <p>17 when we would want to change those or consider</p> <p>18 changing those, he would get involved there.</p> <p>19 Q Did he negotiate those agreements?</p> <p>20 A I don't know that he was the negotiator of the</p> <p>21 agreements, but there was -- I mean, his role was</p> <p>22 significant in those relationships.</p> <p>23 Q Okay. So like which relationships was Reed's role</p> <p>24 significant in?</p> <p>25 A In terms of banking and --</p>	<p>1 A Yeah. I don't know about every day, if he was</p> <p>2 there every day. I didn't track that.</p> <p>3 Q Well, if you met with him daily, you would know if</p> <p>4 he was there; right?</p> <p>5 A I didn't meet with him daily.</p> <p>6 Q Oh, how often did you meet with him?</p> <p>7 A It varied. I would say it varied based on --</p> <p>8 well, based on what -- it varied based on what I</p> <p>9 needed. So I suppose on occasion I could have met</p> <p>10 with him once a week, on occasion I could go a</p> <p>11 month without meeting him.</p> <p>12 Q And did you talk on the phone in between?</p> <p>13 A We would have spoken on the phone when I was --</p> <p>14 yeah. He -- yeah. He would -- he would call me</p> <p>15 on occasion at whatever time at whatever hour, and</p> <p>16 that would be a -- that would be a call. It would</p> <p>17 be Reed Widen, I'm having family dinner, Reed</p> <p>18 Widen shows up on call, and he would be available</p> <p>19 to me at any hour of the day if I needed it. So</p> <p>20 that was a thing.</p> <p>21 Q Okay. So Reed's involvement was overseeing you as</p> <p>22 the CEO and then checking in with you on various</p> <p>23 aspects of the company's operations, and he would</p> <p>24 also take a leading role in managing the banking</p> <p>25 and accounting relationships; is that -- and this</p>
Page 122	Page 124
<p>1 Q Anyone.</p> <p>2 A Yeah, well, the -- well, banking and tax, if we</p> <p>3 think about just those two, those were something</p> <p>4 he wanted to be part of. And he held</p> <p>5 relationships historically with the banks, so Park</p> <p>6 Bank and a relationship with Jim Hegenbarth, who I</p> <p>7 believe was the president of Park Bank at the</p> <p>8 time. So held those relationships.</p> <p>9 And then when we want to change the bank and</p> <p>10 we did to Associated Bank, he got involved there.</p> <p>11 And then his involvement with Baker Tilly has been</p> <p>12 something that's been ongoing for quite a while.</p> <p>13 Q Okay. So, like, on like a typical day, like a</p> <p>14 work day, what was your interaction with Reed?</p> <p>15 A A typical work day, I would meet with him and we</p> <p>16 would -- he would ask questions about budget, he</p> <p>17 would ask questions about certain expenses, he</p> <p>18 would ask questions about employees, like checking</p> <p>19 in on people, like how is so and so or how is this</p> <p>20 person and how's the progress with this product.</p> <p>21 He would challenge certain spending, why is -- why</p> <p>22 are we spending money on X or Y or Z. So those</p> <p>23 would be interactions that Reed and I would have.</p> <p>24 Q And when you were at the company, Reed was at the</p> <p>25 company every day?</p>	<p>1 is 2019 and '20?</p> <p>2 A I wouldn't say a leading role. I would say he was</p> <p>3 participating in that activity. Ultimately he was</p> <p>4 the accountable party to them, so.</p> <p>5 Q How did his compensation get determined?</p> <p>6 A He would determine his compensation.</p> <p>7 Q Okay. Any input from anyone else?</p> <p>8 A I would look at that compensation.</p> <p>9 Q Did you provide input?</p> <p>10 A I would have told him -- I didn't provide input,</p> <p>11 but I would have told him I objected to if I did.</p> <p>12 Q You would have told him?</p> <p>13 A I would have told him that. Yeah.</p> <p>14 Q But you didn't object to it?</p> <p>15 A I didn't object to it.</p> <p>16 Q Okay. Did you -- I mean, because you thought that</p> <p>17 the value he was providing the company was worth a</p> <p>18 million dollars a year?</p> <p>19 A I looked at that as a here's a chairman of this</p> <p>20 kind of organization and is this a -- is this a</p> <p>21 wage that we would pay a chairman. And so based</p> <p>22 on my casual understanding of that role, I looked</p> <p>23 at that and said yeah.</p> <p>24 Q Is that -- so if Reed had retired as being</p> <p>25 chairman, would you have looked to replace his</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 125	Page 127
<p>1 role with someone else earning a million dollars a</p> <p>2 year?</p> <p>3 A I would look to, as it goes for anybody with any</p> <p>4 departure or retirement, I would reexamine what do</p> <p>5 we really need and how are we going to staff this</p> <p>6 back. In Reed's case, I would have staffed back</p> <p>7 probably with a team of advisors, a team of people</p> <p>8 who would represent various advisory capacities</p> <p>9 that Reed provided to me.</p> <p>10 Q Because it would take a team of people to replace</p> <p>11 Reed's role at the company?</p> <p>12 A Yeah. I mean, Reed was not a -- you couldn't</p> <p>13 replace Reed. Reed was the -- Reed was there 30,</p> <p>14 40 years he's been. It's his name on the</p> <p>15 building, his name in the marketplace. He's</p> <p>16 got -- yes, he's got the rich legacy knowledge,</p> <p>17 but also how he takes that knowledge and</p> <p>18 repurposes it with his mentorship with me was</p> <p>19 very important to me. So to replace him is -- you</p> <p>20 couldn't replace. You don't replace Reed. But I</p> <p>21 would replace his advisory capacity with a team of</p> <p>22 advisors.</p> <p>23 Q And you assess that that would probably cost about</p> <p>24 a million dollars a year?</p> <p>25 A I haven't looked at it. I don't know.</p>	<p>1 A I don't know.</p> <p>2 Q So to oversee you, how did you make sure Reed was</p> <p>3 informed about what you were doing in your role as</p> <p>4 CEO?</p> <p>5 A I made sure he was informed in conversations that</p> <p>6 we had, and I also provided updates to him over</p> <p>7 email. And we'd talk on occasion.</p> <p>8 Q Okay. And that was --</p> <p>9 A Over the phone.</p> <p>10 Q Sorry. So some in-person meetings, and then you</p> <p>11 said every, you know, couple weeks to every couple</p> <p>12 months, a phone call and then written</p> <p>13 communications?</p> <p>14 A Correct.</p> <p>15 Q How often were the in-person meetings?</p> <p>16 A Varies.</p> <p>17 Q This is 2019 to 2020 still.</p> <p>18 A 2019 -- well, in 2020, they were more frequent</p> <p>19 just based on the dynamics of the business at that</p> <p>20 time. Reed needed to be aware of the uncertainty</p> <p>21 that we were navigating, so that was a much more</p> <p>22 regular connection there.</p> <p>23 Q Okay. Reed stayed more closely apprized of what</p> <p>24 was going on at the company in 2020 than in 2019?</p> <p>25 A I would say our communication -- my communication</p>
Page 126	Page 128
<p>1 Q Okay. But --</p> <p>2 A That would be my budget that I would say, all</p> <p>3 right, now how am I going to staff this back with</p> <p>4 a team of advisors who whatever that was.</p> <p>5 Q So Reed doesn't work at the company anymore;</p> <p>6 right?</p> <p>7 A Reed does not work for Acquia.</p> <p>8 Q How did you replace his role?</p> <p>9 A Well, I report to the CEO of Acquia now, so I get</p> <p>10 coaching and mentoring and guidance through the</p> <p>11 CEO of Acquia, and I also have other people at</p> <p>12 Acquia that I actively network with and consult</p> <p>13 with.</p> <p>14 Q Is the CEO of Acquia's role in Acquia similar to</p> <p>15 Reed's role at Widen Enterprises?</p> <p>16 A The CEO of Acquia is the role of the CEO, and it</p> <p>17 would not be the role of the chairman. So he is</p> <p>18 not the chairman like Reed was the chairman of</p> <p>19 Widen.</p> <p>20 Q Fair to say he is more involved on a day-to-day</p> <p>21 basis than Reed was as a chairman?</p> <p>22 A The CEO is involved in more day-to-day activities.</p> <p>23 Q What's his compensation?</p> <p>24 A Whose?</p> <p>25 Q The CEO of Acquia.</p>	<p>1 to him was more frequent given the state of the</p> <p>2 business.</p> <p>3 Q Okay.</p> <p>4 A And that state was the COVID state of uncertainty</p> <p>5 and, yeah. Yeah. Just uncertainty amplified.</p> <p>6 Q So you said Reed's comp was about a million</p> <p>7 dollars a year in wage; right?</p> <p>8 A I don't know the exact amount, but --</p> <p>9 Q Around that. Did Reed ever get a bonus?</p> <p>10 A Reed would get bonuses, yeah. He would earn</p> <p>11 bonuses.</p> <p>12 Q And those were based on his performance?</p> <p>13 A His performance, yeah.</p> <p>14 Q Okay.</p> <p>15 A Yep.</p> <p>16 (Exhibit No. 3 was marked for</p> <p>17 identification.)</p> <p>18 Q Okay. So what's been handed to you and marked as</p> <p>19 Exhibit 3, I'd like you to take a look at this.</p> <p>20 Do you recognize this as a text communication</p> <p>21 between you and Michael Kiesler?</p> <p>22 A Did you say a text communication?</p> <p>23 Q Yeah. Well, what kind of communication is this?</p> <p>24 A I'm looking at the icon in the upper left, and it</p> <p>25 looks like a Slack icon, so I would say this would</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 129	Page 131
<p>1 be more likely a Slack exchange.</p> <p>2 Q Okay. And that's an instant messaging program</p> <p>3 that you guys used?</p> <p>4 A It's an internal communications tool.</p> <p>5 Q Okay. And this is a conversation you had with</p> <p>6 Michael Kiesler over Slack?</p> <p>7 A Uh-huh.</p> <p>8 Q And if you look a couple lines down, Mr. Kiesler</p> <p>9 says to you, "FYI, Reed has a substantial tax bill</p> <p>10 that he has asked the company to pay via bonus."</p> <p>11 And you say, "Of which will be grossed up for tax</p> <p>12 reasons," and Mr. Kiesler says, "Correct." Right?</p> <p>13 A Yep. I see it.</p> <p>14 Q Okay. So that to me looks like Reed is asking the</p> <p>15 company to pay him a bonus based on his tax</p> <p>16 liabilities; is that fair?</p> <p>17 A No. We owed Reed a bonus here, and Reed appears</p> <p>18 to be saying he was going to use it for a tax</p> <p>19 bill.</p> <p>20 Q Oh, okay.</p> <p>21 A Ultimately what we -- we owed Reed a bonus here,</p> <p>22 and so that he's stating he's using it for a tax</p> <p>23 bill is not -- not my concern.</p> <p>24 Q Got it. And then so you go on and you say, "Does</p> <p>25 a shareholder distribution have less</p>	<p>1 Q Okay. And was it based on the fact that he needed</p> <p>2 this bonus for tax reasons?</p> <p>3 A How he used the bonus again was not my -- not my</p> <p>4 concern. It was that we owed him a bonus.</p> <p>5 Q Okay. Because you got to pay taxes on the</p> <p>6 gross-up too; right?</p> <p>7 A Right.</p> <p>8 Q It's like a circular calculation?</p> <p>9 A Yeah. There was a gross -- yeah. There was a</p> <p>10 gross-up. And this was common. This was a me</p> <p>11 verifying with Mike this is going to be a larger</p> <p>12 amount.</p> <p>13 Q Is this how your bonuses were determined?</p> <p>14 A I don't remember.</p> <p>15 Q You don't remember if this was how your bonuses</p> <p>16 were determined?</p> <p>17 A I don't. No.</p> <p>18 Q Do you know if this is how Mr. Kiesler's bonuses</p> <p>19 were determined?</p> <p>20 A I don't.</p> <p>21 Q Did you have responsible for setting Mr. Kiesler's</p> <p>22 compensation?</p> <p>23 A I did.</p> <p>24 Q Okay. But you don't know if this is -- did you --</p> <p>25 did you ever decide to pay Mr. Kiesler a bonus?</p>
Page 130	Page 132
<p>1 consequences?" And Mr. Kiesler says, "Not certain</p> <p>2 since I don't know what the basis of the stock is</p> <p>3 of the stock redeemed." And you say, "I was</p> <p>4 thinking dividend, not buyback." Do you see that?</p> <p>5 A I do.</p> <p>6 Q So why were you asking if this payment should be</p> <p>7 made as a dividend if it was owed to Reed as a</p> <p>8 bonus?</p> <p>9 A Yeah, I was thinking this is going to -- this is</p> <p>10 going to be grossed up for tax reasons. There's a</p> <p>11 sizable bonus here.</p> <p>12 Q What is -- first of all, what did you mean by</p> <p>13 grossed up for tax reasons?</p> <p>14 A That means to pay for the taxes related to the</p> <p>15 bonus amount and so that the bonus amount would be</p> <p>16 at a level that would be paying for the taxes</p> <p>17 related to that bonus.</p> <p>18 Q Okay. So the bonus isn't just a set amount, the</p> <p>19 bonus is a gross amount that after taxes comes to</p> <p>20 a net amount?</p> <p>21 A Correct.</p> <p>22 Q Okay. And why was it -- why did you determine</p> <p>23 that Reed's bonus was going to be determined by</p> <p>24 the net amount as opposed to the gross amount?</p> <p>25 A Reed would determine that.</p>	<p>1 A Yes.</p> <p>2 Q Okay. How did you determine how much to pay him?</p> <p>3 MR. CHURCHILL: Objection. Assumes</p> <p>4 facts not in evidence.</p> <p>5 A How did I determine what to pay Mr. Kiesler?</p> <p>6 Q Yeah.</p> <p>7 A Sometimes Reed would recommend a bonus and I would</p> <p>8 confirm that that's an appropriate amount.</p> <p>9 Q And then you would gross up that amount to get</p> <p>10 that as the after tax amount?</p> <p>11 A I don't remember that.</p> <p>12 Q Oh, okay. So you said Reed determined that he</p> <p>13 would get this bonus?</p> <p>14 A Correct.</p> <p>15 Q Okay. And Reed determined how much the bonus</p> <p>16 would be?</p> <p>17 A Correct.</p> <p>18 Q Okay. So let's get back. Why did you ask if this</p> <p>19 should be done as a dividend?</p> <p>20 A I -- what I was thinking here was maybe I can talk</p> <p>21 to Reed about what it would look like to pay a</p> <p>22 dividend and then he might forego his bonus and</p> <p>23 then we'd have the shareholders to win in this.</p> <p>24 So that was what I was thinking.</p> <p>25 Q Like you and Mr. Kiesler and Stacy at this time</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 133	Page 135
<p>1 would all have gotten a share of that amount as 2 opposed to just Reed getting the bonus? 3 A Reed would still be owed a bonus, which ends up 4 being my concern here, which is, okay, we could go 5 through the process of a dividend, but then Reed 6 would still be owed a bonus. 7 And so my conclusion as I'm thinking with 8 Mike on this is, well, we should just pay Reed the 9 bonus that he's owed because otherwise we'll make 10 a distribution, which is a large amount, and we'd 11 then have to still owe Reed the bonus, which is 12 then putting the company in a less desirable 13 financial position. 14 Q Your interest was decreasing the total amount that 15 went out of the company? 16 A My interest was honoring the commitments, and the 17 commitment we made was Reed's bonus. So Reed -- 18 Q And Reed determined that commitment? 19 A Reed determined the amount. 20 Q Who determined that there was a commitment? 21 A We commit to paying bonuses to Reed, to the 22 chairman, for his role. 23 Q And who decided to do that? 24 A Reed decides to do at that. 25 Q Okay. So Reed determined that there was a</p>	<p>1 receivable plus interest." 2 So why is Mike Kiesler telling you about 3 Stacy's redemption at Windy Waters if you don't 4 have a role as Windy Waters? 5 A Sometimes he would just provide an update. 6 Q Okay. Did you ever ask him for updates about 7 Windy Waters transactions with Stacy? 8 A I -- yeah, I do remember asking for an update 9 after Stacy came to us and asked to redeem her 10 shares that I said is Reed going to help Stacy or 11 not. 12 Q Let's go back to that. So you say you don't know 13 if Stacy asked to do -- to redeem all of her 14 shares or part of her shares; right? 15 A Correct. 16 Q Who told you that she approached the company about 17 redeeming shares at all? 18 A That would have been Reed or Mike. I don't recall 19 which one. 20 Q Okay. Do you recall when you heard about that? 21 A I don't. 22 Q Okay. You don't recall anything about that 23 conversation? 24 A No, I don't. 25 Q Okay. You can put that aside. So did you see the</p>
Page 134	Page 136
<p>1 commitment and how much the commitment was? 2 A And the organization recognizes that there's a 3 commitment and that we have to honor that 4 commitment. Yes. 5 Q Okay. So you ask Mr. Kiesler if this should be 6 done as a dividend, but then it looks like he says 7 to you it would have to be prorated to all 8 shareholders, much larger number? 9 A Uh-huh. 10 Q And you said plan A -- 11 A Yep. 12 Q -- meaning go with the bonus? 13 A Which is let's -- I'm not going to approach Reed 14 with the dividend idea because dividends are 15 ultimately his decision. But, yeah, this was -- 16 then it was going to be a -- it's better to just 17 pay Reed what he's owed as a bonus. 18 Q And why do you say dividends are ultimately Reed's 19 decision? 20 A Because he's the chairman and I report to him and 21 that's his -- that's his call. 22 Q Okay. And then Mike says, "Another FYI. 23 Redemption transaction has been completed with 24 Stacy Randall. Total of \$120,000 in stock value 25 is redeemed. She paid back her \$20,000 note</p>	<p>1 dividend as a way to -- as a replacement for the 2 bonus? 3 A The idea thread there was maybe I could convince 4 Reed to forego the bonus that he was owed and then 5 we could have more people share in a dividend. 6 But -- 7 Q Like you? 8 A Like me. I would have benefitted from that too. 9 Yep. 10 Q I'm guessing that wasn't your primary concern was 11 not your personal benefit, I'm guessing? 12 A No. It was my -- my primary concern was we owe 13 Reed a bonus and that I don't want to put the 14 company in a financial state that is not as 15 favorable. 16 So by my thought process of that was if I 17 propose a dividend to Reed and Reed likes that 18 dividend, then he's still owed the bonus and 19 therefore now we're not only having a much larger 20 distribution, but now we're also still owing Reed 21 the bonus, as in he would want potentially both. 22 Q Why would it have been a much larger distribution 23 from the dividend than the bonus? 24 A Why would it have been a much larger distribution 25 as a dividend rather than a bonus?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 137	Page 139
<p>1 Q Yeah.</p> <p>2 MR. CHURCHILL: Objection.</p> <p>3 Mischaracterizes testimony.</p> <p>4 BY MR. PALAY:</p> <p>5 Q Well, Mike Kiesler said to you much larger number,</p> <p>6 right?</p> <p>7 A Yeah.</p> <p>8 Q Why would that have been the case?</p> <p>9 A Because the bonus that we owed Reed was a smaller</p> <p>10 amount than what the dividend would have been.</p> <p>11 Q The dividend to get Reed the same amount --</p> <p>12 A Correct.</p> <p>13 Q -- as the bonus?</p> <p>14 A Correct.</p> <p>15 Q Okay. So you were thinking of a dividend that</p> <p>16 would get Reed the same exact amount as this</p> <p>17 bonus?</p> <p>18 A That was the thinking of how might I be able to do</p> <p>19 this, and if I put this in front of Reed, would he</p> <p>20 go for it, instead of just taking his bonus that</p> <p>21 he earned. But if I could get him the dividend,</p> <p>22 then more people could win from that. But that</p> <p>23 would be a larger amount, and Reed was still owed</p> <p>24 his bonus, which was my ultimate concern there,</p> <p>25 and then thinking I'm not going to put the company</p>	<p>1 Q Was it the same time every year?</p> <p>2 A I don't remember.</p> <p>3 Q Was it different times in different years?</p> <p>4 A I don't know.</p> <p>5 Q Okay. Did it happen just in April of 2019</p> <p>6 because that when Reed's taxes were due?</p> <p>7 A I don't know.</p> <p>8 (Exhibit No. 4 was marked for</p> <p>9 identification.)</p> <p>10 MR. PALAY: So what is this,</p> <p>11 Exhibit 4?</p> <p>12 THE REPORTER: Yes.</p> <p>13 BY MR. PALAY:</p> <p>14 Q Do you recognize this document?</p> <p>15 A I do.</p> <p>16 Q Is it a Slack message from you?</p> <p>17 A It is the same icon on the left, and that would</p> <p>18 indicate it's a Slack message, yes.</p> <p>19 Q Okay. Do you know who you wrote this Slack</p> <p>20 message to? If you go to the front page, it says</p> <p>21 you and Mike Kiesler, it looks like?</p> <p>22 A Yep.</p> <p>23 Q Okay.</p> <p>24 A That would indicate that I sent it to Mike. Yep.</p> <p>25 Q Okay. And can you just read this Slack message.</p>
Page 138	Page 140
<p>1 in that state.</p> <p>2 Q Okay. So how much was Reed owed in a bonus?</p> <p>3 A It varied.</p> <p>4 Q Based on what?</p> <p>5 A Based on his determination of performance, which</p> <p>6 is reflected on how I was performing as the CEO,</p> <p>7 which was his primary responsibility.</p> <p>8 Q Okay. So did your -- your bonuses, did they go up</p> <p>9 and down with Reed's bonuses?</p> <p>10 A Reed would set my bonuses and they would go up and</p> <p>11 down. Yeah.</p> <p>12 Q Okay. Did they go up and down by the same amount?</p> <p>13 A I don't know.</p> <p>14 Q So based on how you did as CEO, Reed would set a</p> <p>15 bonus, and that would change from, what, how often</p> <p>16 did he get a bonus?</p> <p>17 A Reed's bonuses?</p> <p>18 Q Yeah.</p> <p>19 A He would -- they would be annual. He would set</p> <p>20 the bonus and he would determine what that bonus</p> <p>21 amount was by how I was performing, which was his</p> <p>22 primary responsibility, and also the organization.</p> <p>23 Q So it was annual. When in the fiscal year did</p> <p>24 Reed's bonus get paid?</p> <p>25 A I don't remember.</p>	<p>1 A "A few things we should explore after a</p> <p>2 conversation I had with Reed yesterday. One,</p> <p>3 buy back the shares of the children's trust.</p> <p>4 Parens, Reed wants to dissolve that trust, end</p> <p>5 parens, and Stacy, after the year end valuation,</p> <p>6 parens, with spacing of payments, end parens.</p> <p>7 Two, after those transactions, explore the</p> <p>8 benefits of paying Reed, parens, and Gary, end</p> <p>9 parens, in dividends instead of wages."</p> <p>10 Q Thank you. So does this indicate that you spoke</p> <p>11 with Reed about buying back the shares of the</p> <p>12 children's trust and Stacy in 2019?</p> <p>13 A This indicates I had a conversation with Reed.</p> <p>14 Q About those two things?</p> <p>15 A Not necessarily about those two things. It does</p> <p>16 indicate I had a conversation with Reed.</p> <p>17 Q Okay. And that conversation sparked to you the</p> <p>18 idea of buying back the shares of the children's</p> <p>19 trust and Stacy?</p> <p>20 A That's the way this reads. Yes.</p> <p>21 Q And so why would you have come up with an idea</p> <p>22 about buying back shareholders of Windy Waters if</p> <p>23 you didn't have a role in Windy Waters'</p> <p>24 management?</p> <p>25 A Yep. I had a lot -- yeah, I had ideas about how</p>

**Stacy L. Randall v.  
Reed C. Widen, et al.**

**Video Deposition of Matthew R. Gonnering**

Page 141	Page 143
<p>1 things could work. And the buying back of shares</p> <p>2 was something I had proposed, in particular buying</p> <p>3 back the shares of passive shareholders, people</p> <p>4 that were not engaged in the business and had a</p> <p>5 willingness to be engaged, and that Stacy was one</p> <p>6 of those and price was the one before that.</p> <p>7 <b>Q Why did you want -- why did you think buying</b></p> <p>8 <b>passive shareholders out was a good idea?</b></p> <p>9 <b>A</b> I think offering to buy them out was a good idea</p> <p>10 because having engaged shareholders was better.</p> <p>11 <b>Q Okay. Well, this doesn't say offer. This says</b></p> <p>12 <b>buy back; right?</b></p> <p>13 <b>A</b> Yeah. There's two willing parties here. The</p> <p>14 offer to buy back is a price -- could have</p> <p>15 refused, Stacy could have refused, other people</p> <p>16 could have refused.</p> <p>17 <b>Q Sure. And then after those transactions, explore</b></p> <p>18 <b>the benefits of paying Reed and Gary in dividends</b></p> <p>19 <b>instead of wages?</b></p> <p>20 <b>A</b> Yep.</p> <p>21 <b>Q Why after those transactions?</b></p> <p>22 <b>A</b> This isn't the first time that I would have</p> <p>23 addressed this. This was a -- this was a business</p> <p>24 school topic that stuck with me as in, oh, there's</p> <p>25 benefits to paying people in dividends versus</p>	<p>1 <b>this?</b></p> <p>2 <b>A</b> I don't know that there was any proposal to offer</p> <p>3 Stacy in particular. There was a general</p> <p>4 statement of let's offer to buy back the shares of</p> <p>5 passive shareholders.</p> <p>6 <b>Q Okay. All passive shareholders?</b></p> <p>7 <b>A</b> Correct.</p> <p>8 <b>Q Not singling anyone out?</b></p> <p>9 <b>A</b> Correct.</p> <p>10 <b>Q When did you first raise that with Reed?</b></p> <p>11 <b>A</b> I don't recall.</p> <p>12 <b>Q It was before 2019?</b></p> <p>13 <b>A</b> I don't recall.</p> <p>14 <b>Q Okay. You said this wasn't the first time you</b></p> <p>15 <b>raised this, so when was the other time before</b></p> <p>16 <b>this that you raised this?</b></p> <p>17 <b>A</b> I don't know.</p> <p>18 <b>Q Okay. So you don't know if this was or wasn't the</b></p> <p>19 <b>first time you raised this?</b></p> <p>20 <b>A</b> This wouldn't have been the first time I raised</p> <p>21 it. And this is 10/16/19. You had expanded on</p> <p>22 '19 in general, which, before 10/16/19, there was</p> <p>23 ten months prior. It's possible that it happened</p> <p>24 in '19, but I don't know.</p> <p>25 <b>Q Okay. I'm just trying to -- okay. Expanding to</b></p>
Page 142	Page 144
<p>1 wages, and so, yeah, this wouldn't have been the</p> <p>2 first time I raised this, and it shows up here</p> <p>3 again as a should we explore this.</p> <p>4 <b>Q Okay. And so what's the benefit of paying people</b></p> <p>5 <b>in dividends as opposed to wages?</b></p> <p>6 <b>A</b> Less tax.</p> <p>7 <b>Q Okay. Because you pay a lower tax late on</b></p> <p>8 <b>dividend than you do on compensation?</b></p> <p>9 <b>A</b> That was my general understanding. Yeah.</p> <p>10 <b>Q Okay. Did you go to business school?</b></p> <p>11 <b>A</b> I did.</p> <p>12 <b>Q Oh, at St. Norbert?</b></p> <p>13 <b>A</b> Yes.</p> <p>14 <b>Q Okay. Was that part of your undergrad degree</b></p> <p>15 <b>or --</b></p> <p>16 <b>A</b> Correct.</p> <p>17 <b>Q And so you thought that if there were fewer</b></p> <p>18 <b>passive shareholders in the business, yeah, I</b></p> <p>19 <b>guess, so what's the point of waiting until after</b></p> <p>20 <b>the buyouts of Stacy and the children's trust to</b></p> <p>21 <b>explore the dividends?</b></p> <p>22 <b>A</b> I think, I mean, this was something I proposed</p> <p>23 before too, so this was another time to propose</p> <p>24 it.</p> <p>25 <b>Q Okay. So you had proposed buying Stacy out before</b></p>	<p>1 <b>all time horizons, what makes you think this</b></p> <p>2 <b>wasn't the first time you raised this?</b></p> <p>3 <b>A</b> Because it's a -- it was a topic that stuck with</p> <p>4 me. It was a topic that I had asked and thought</p> <p>5 about before.</p> <p>6 <b>Q Okay. Like over years?</b></p> <p>7 <b>A</b> The dividends?</p> <p>8 <b>Q Well, the buyout and the dividends.</b></p> <p>9 <b>A</b> Yeah. Both. I don't know when I first proposed</p> <p>10 that to Reed.</p> <p>11 <b>Q Okay. But it was before this?</b></p> <p>12 <b>A</b> Before this.</p> <p>13 <b>Q Okay. And what did Reed say, you know, when you</b></p> <p>14 <b>proposed that to him?</b></p> <p>15 <b>A</b> I don't recall what Reed said.</p> <p>16 <b>Q Ever?</b></p> <p>17 <b>A</b> No.</p> <p>18 <b>Q Okay. You don't recall any response from Reed</b></p> <p>19 <b>anytime you ever raised that?</b></p> <p>20 <b>A</b> No.</p> <p>21 <b>Q Okay. And you don't -- so you don't recall what</b></p> <p>22 <b>he said to you in this conversation?</b></p> <p>23 <b>A</b> I do not.</p> <p>24 <b>Q Do you think you would have raised doing it to</b></p> <p>25 <b>Michael Kiesler if Reed had told you not to do</b></p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 145	Page 147
<p>1 this, to pursue this?</p> <p>2 A Do I think I would have proposed it or would I</p> <p>3 have said it to Michael Kiesler if Reed had said</p> <p>4 no. I don't know.</p> <p>5 Q You might have done it anyway?</p> <p>6 A I don't know.</p> <p>7 Q Okay. And you said with spacing payments. What</p> <p>8 did that mean?</p> <p>9 A I was aware that we had paid previous shareholders</p> <p>10 that were owed a large amount, that we would space</p> <p>11 their payments. Stewart Widen was an example of</p> <p>12 that. We had spaced his payments over a time</p> <p>13 period given the amount was so large. Price's</p> <p>14 agreement also had a spacing of payments since the</p> <p>15 amount was so large. So the spacing of payments</p> <p>16 for the shareholders that were owed the largest</p> <p>17 amount was beneficial to the business.</p> <p>18 Q Because the shareholder's basically financing the</p> <p>19 purchase?</p> <p>20 A Because the shareholder's financing the purchase.</p> <p>21 I don't know that. If it's just --</p> <p>22 Q Would you call that a seller financed deal where</p> <p>23 someone's getting payments over time as opposed to</p> <p>24 all the money they're owed up front?</p> <p>25 A Provided that both parties are agreeing to what</p>	<p>1 transactions?</p> <p>2 A I don't.</p> <p>3 Q Okay. Did you participate in either of those</p> <p>4 transactions at all?</p> <p>5 A No.</p> <p>6 Q Okay. And when you said buy out the children's</p> <p>7 trust and Stacy with the spacing payments, were</p> <p>8 you thinking that that buyout was going to happen</p> <p>9 using the formula in the shareholder agreement</p> <p>10 that was used for Stewart's buyout?</p> <p>11 A I was -- since I was a shareholder, I also knew of</p> <p>12 that formula, and yes, I know Price used that</p> <p>13 formula, I know Stewart. I know all shareholders</p> <p>14 bought and sold on that formula.</p> <p>15 Q Okay.</p> <p>16 A And were agreed to do to use that formula. Yes.</p> <p>17 Q When did the shareholders agree to use that</p> <p>18 formula?</p> <p>19 A I don't know.</p> <p>20 Q Well, you were a shareholder?</p> <p>21 A I agreed to use the formula when I agreed to the</p> <p>22 stock agreement that I had signed.</p> <p>23 Q Okay. Was that agreement cabined to certain types</p> <p>24 of transactions, or just anytime you ever bought</p> <p>25 or sold stock from the company?</p>
Page 146	Page 148
<p>1 those payments are.</p> <p>2 Q Sure. Yeah. So would you agree with that</p> <p>3 characterization as a seller financed?</p> <p>4 A Seller -- I wouldn't use those words. I haven't</p> <p>5 used those words before, so I'm not sure.</p> <p>6 Q Okay. That's fine. And so you said Stewart's</p> <p>7 buyout and Price's buyout. When was Stewart</p> <p>8 bought out?</p> <p>9 A I don't know.</p> <p>10 Q Do you know why Stewart was bought out?</p> <p>11 A I don't.</p> <p>12 Q Do you know if it was because he died?</p> <p>13 A I don't.</p> <p>14 Q Okay. Did you meet Stewart?</p> <p>15 A Yep.</p> <p>16 Q Did you ever met him after his buyout?</p> <p>17 A I don't recall.</p> <p>18 Q Okay. Do you know why Price was bought out?</p> <p>19 A I don't.</p> <p>20 Q Those were transactions that you proposed, you</p> <p>21 said?</p> <p>22 A I didn't propose those specific transactions. It</p> <p>23 would have been in the -- in the summary of what's</p> <p>24 offered to buy back.</p> <p>25 Q Do you know who proposed the specific</p>	<p>1 A I understood the formula to be when I want to buy</p> <p>2 shares, I buy them through that equation, and then</p> <p>3 also when I sell shares, I would sell them through</p> <p>4 that equation if there was a certain event where I</p> <p>5 would want to sell.</p> <p>6 Q What do you mean a certain event?</p> <p>7 A Like I would have the need to sell the shares. So</p> <p>8 if I wanted to sell the shares, I would be</p> <p>9 accountable to that formula.</p> <p>10 Q Okay. So if you wanted to sell, you know, 10</p> <p>11 percent of your stock in 2019 when you were the</p> <p>12 CEO and you were going to continue being the CEO,</p> <p>13 you believed that the shareholder agreement</p> <p>14 required you to sell using that formula?</p> <p>15 A Yeah.</p> <p>16 Q Okay. Do you still believe that today?</p> <p>17 A Yeah.</p> <p>18 Q Okay.</p> <p>19 A If I were to have sold my shares, I would have</p> <p>20 been following that agreement.</p> <p>21 Q Because that's what the agreement required?</p> <p>22 MR. CHURCHILL: Objection to the</p> <p>23 extent it calls for a legal conclusion.</p> <p>24 A I would have to consult counsel to be able to</p> <p>25 figure out if that was --</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 149	Page 151
<p>1 Q But that was your belief at the time, at least?</p> <p>2 A The belief at that time was that I would have to follow that formula.</p> <p>3</p> <p>4 Q Got it. And the belief at that time was that the children's trust and Stacy would have to follow that formula too?</p> <p>5</p> <p>6</p> <p>7 A And that it was a consistent formula for all shareholders. Yes.</p> <p>8</p> <p>9 Q Okay. But I'm not asking you if it was consistent, I'm just asking if it was required.</p> <p>10</p> <p>11 MR. CHURCHILL: Same objection.</p> <p>12 Calls for a legal conclusion.</p> <p>13 A I would have to consult counsel before determining whether or not that was the case.</p> <p>14</p> <p>15 Q Okay. Did you ever do that?</p> <p>16 A No.</p> <p>17 Q Okay. Did you ever ask Michael Kiesler to look into how much money Reed would expect to receive in a sale of Widen Enterprises at a sale price of \$50 million?</p> <p>18</p> <p>19</p> <p>20</p> <p>21 A I asked Mike to look into what I deemed my competition, which was what Reed could generate in the market. So I asked Mike Kiesler to look at that.</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Q I'm sorry. I'm not sure if I'm following. What</p>	<p>1 Q Okay. So this is another Slack message between you and Michael Kiesler. It's dated October 22nd, 2019. I kind of summarized the gist of it. I know your counsel will catch me if I mess up the reading at all, which is why I've been asking you to do it.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 MR. CHURCHILL: Is that why.</p> <p>8 BY MR. PALAY:</p> <p>9 Q He's a stickler and, you know, sometimes it's hard to read. I'll try. You said to Mike -- and do you call him Mike? I don't mean to --</p> <p>10</p> <p>11</p> <p>12 A Mike or Michael.</p> <p>13 Q Okay. You said, "Hey, CFO guy. Pretend company valuation is \$50 million and Reed decided to sell. Based on his ownership percentage, he now had blank million in post-sale cash and he reinvested that amount into the market at an average S and amp colon -- or semicolon P return rate. What would his annual return be." Did I read that correctly?</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 A Yeah.</p> <p>22 Q That was not an easy one either. So what was this -- what was the point of this message? This was what you were saying you wanted to stay ahead of --</p> <p>23</p> <p>24</p> <p>25</p>
Page 150	Page 152
<p>1 do you mean your competition?</p> <p>2 A I viewed -- I viewed the growth of the organization and what I had to provide as the CEO as something that was better than what Reed could get in the market.</p> <p>3</p> <p>4</p> <p>5</p> <p>6 Q I see. Okay. So you measured your performance as a CEO against what Reed would essentially make if he sold the company and just invested his money in the stock market?</p> <p>7</p> <p>8</p> <p>9</p> <p>10 A I didn't measure my performance against it. I knew that it was a factor. It was a way that I would determine was I doing my job.</p> <p>11</p> <p>12</p> <p>13 Q Your job was to stay ahead of that?</p> <p>14 A My job -- amongst several things, yes.</p> <p>15 Q Okay. And so when you asked Michael Kiesler to look into how much Reed would get and then make in a sale of Widen Enterprises at \$50 million, why did you pick \$50 million?</p> <p>16</p> <p>17</p> <p>18</p> <p>19 A I picked 50 million -- what's the date on that?</p> <p>20 Q It was in October 2019. Here, we can just look at the document. It doesn't need to be a hypothetical. We love hypotheticals in the law. We grew up on them.</p> <p>21</p> <p>22</p> <p>23</p> <p>24 (Exhibit No. 5 was marked for</p> <p>25 identification.)</p>	<p>1 A Yep.</p> <p>2 Q -- basically what Reed could get in the market?</p> <p>3 A Yep.</p> <p>4 Q And this is what you believed Reed could get in the market all of that day?</p> <p>5</p> <p>6 A No. This was a pretend. So pretend company valuation is 50 million.</p> <p>7</p> <p>8 Q So you do -- you do do hypotheticals about the company valuation?</p> <p>9</p> <p>10 A Well, I did a pretend here for the result of being able to say how are we performing relative to the alternatives.</p> <p>11</p> <p>12</p> <p>13 Q Okay. And you would only know how you're performing relative to the alternatives if you picked a realistic alternative scenario; right?</p> <p>14</p> <p>15</p> <p>16 A I would have picked the scenario that was based on other companies. So I know by way of date that this is after a transaction that was made by a company called WebDAM, and that I estimated a multiple in that transaction and would have applied my guess on that equation to get to this. So it's a guess and a pretend and a what if.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Q Okay. When you say a multiple, what do you mean?</p> <p>24 A I mean a multiplier to some other number.</p> <p>25 Q Okay. What was that other number in this case?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 153	Page 155
<p>1 A In this case, that other number would have been 2 the annual recurring revenue. 3 Q Okay. So you guesstimated -- you pretended and 4 guessed at what -- well, let me just start over. 5 Did you know WebDAM's annual recurring revenue? 6 A I did not. 7 Q Okay. So you guessed what that number was? 8 A Correct. 9 Q Based on the sale price? 10 A No. I don't recall exactly how I would have 11 guessed it. 12 Q Okay. You came to some guess about WebDAM's 13 annual recurring revenue? 14 A Correct. 15 Q And then you applied a multiplier to that number? 16 A Correct. 17 Q And you said if I applied the same multiplier to 18 Widen Enterprises' annual recurring revenue, the 19 number would be 50 million? 20 A Correct. 21 Q Okay. Did that seem like a reasonable guess to 22 you? 23 A It was a guess. It was a number to then run the 24 rest of this, which is to say pretend these 25 things, and if that's the -- if those are the</p>	<p>1 way to say pretend if it's this. 2 Q Okay. So what did you know about the WebDAM 3 transaction? What was like the information you 4 gleaned from that? 5 A Based on the press release that was provided by 6 the company that acquired them. 7 Q Okay. So you knew the sale price? 8 A Yep. 9 Q Okay. And then how did you figure out what 10 multiplier to use? 11 A I would have guessed their revenue. 12 Q Okay. So you guessed their revenue, and then you 13 figured out from that the multiplier? 14 A Right. I would have just taken their transaction 15 price divided by what my guess on revenue was and 16 then got the multiple. 17 Q Got it. How did you guess their revenue? 18 A Market -- general market activities. Like I think 19 they might have been at this and there might have 20 been a growth rate or -- 21 Q Okay. Like did you have, like, information that 22 you used, or was this just like -- like a wild 23 guess at their revenue? 24 A I don't recall. Yeah, I would have hacked 25 together a formula.</p>
Page 154	Page 156
<p>1 assumptions, this is the result. 2 Q Okay. And what -- do you recall what the result 3 was? 4 A I don't. 5 Q Okay. Do you think that was, like, an 6 unreasonable assumption to make, using the same 7 multiplier for WebDAM and Widen Enterprises? 8 A Was it an unreasonable assumption? It was an 9 assumption. It was an assumption based on another 10 company in our market. So I don't know if it was 11 reasonable or unreasonable. It was just -- it 12 just was. 13 Q Was it informed? 14 A It was a company that we would compete with, so 15 I -- 16 Q I mean, you wanted to accurately understand if you 17 were beating what Reed could do to get in the 18 market; right? 19 A I did. Yep. 20 Q Okay. So you -- this was as accurate as you could 21 be? 22 A This was as accurate as I could be. With a lot of 23 guessing about what it could be from the WebDAM 24 transaction. Again, I didn't know that one. 25 Guessing that one and then applying it here was a</p>	<p>1 Q Okay. I mean, did you use like market research 2 companies at all to figure out what your 3 competitors' revenues were? 4 A No. 5 Q Never used Capital IQ or anything like that? 6 A No. 7 Q Okay. And is revenue or annual recurring revenue 8 numbers something that DAM companies keep very 9 private? 10 A It's not -- yeah, it wouldn't be a known number. 11 We wouldn't publish ours and other companies 12 wouldn't publish theirs. 13 Q You wouldn't talk to other people outside your 14 company about your -- 15 A No. 16 Q Okay. Would you say, though, guesses were like 17 your -- were your best guesses based on what you 18 knew? 19 A They were my guesses at the time with what I knew. 20 Q Best guesses at the time based on what you knew? 21 A Based on the time that I would have applied to 22 doing it, yeah. 23 Q So at that time? 24 A And with the time constraints. So these would 25 have been, all right, I see this, I could have</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 157	Page 159
<p>1 done that calculation in two minutes.</p> <p>2 Q You didn't do, like, a ton of research to find out</p> <p>3 that, you could have looked into it further is</p> <p>4 what you're saying?</p> <p>5 A Correct.</p> <p>6 Q But like -- I understand. If I could paraphrase</p> <p>7 how I understand it, given how much time you spent</p> <p>8 looking into it and the information you had, that</p> <p>9 was your best guess?</p> <p>10 A Given the amount of time I spent and the</p> <p>11 information that was available to me, yeah.</p> <p>12 Q Okay.</p> <p>13 (Exhibit No. 6 was marked for</p> <p>14 identification.)</p> <p>15 Q Okay. Do you recognize this document?</p> <p>16 A This is an operational update to Reed.</p> <p>17 Q Okay. And is this the type of up date you would</p> <p>18 prepare in your normal course of duties as CEO?</p> <p>19 A Yes.</p> <p>20 Q And this one's dated November 22nd, 2019?</p> <p>21 A Yep.</p> <p>22 Q Okay. And it looks like in the beginning, you</p> <p>23 update Reed on the cash and the accounts</p> <p>24 receivable?</p> <p>25 A Uh-huh.</p>	<p>1 have been working on buying back shares, as the</p> <p>2 weighted EBITDA valuation is low. I recommend we</p> <p>3 do not sell more shares and continue the share</p> <p>4 buybacks of specific shareholders as previously</p> <p>5 outlined."</p> <p>6 Q Okay. So Gary Norris -- is this Gary Norris as</p> <p>7 Gary?</p> <p>8 A Yep.</p> <p>9 Q Okay. He came to you and asked if he could buy</p> <p>10 more shares of Windy Waters?</p> <p>11 A Yep.</p> <p>12 Q Okay. And what did you say to Gary?</p> <p>13 A Talk to Reed.</p> <p>14 Q Okay. And that's because Reed decided if people</p> <p>15 could buy shares of Windy Waters?</p> <p>16 A That was my understanding.</p> <p>17 Q Okay. You didn't say talk to Stacy; right?</p> <p>18 A No.</p> <p>19 Q Did you understand Stacy to have any role in</p> <p>20 deciding if people bought shares of Windy Waters?</p> <p>21 A I didn't.</p> <p>22 Q Okay. And you told Gary what you were going to</p> <p>23 tell Reed in order to manage Gary's expectations?</p> <p>24 Okay. Why did you want to do that?</p> <p>25 A To make sure that Gary knew what I thought.</p>
Page 158	Page 160
<p>1 Q And then the 29 EBITDA and revenue?</p> <p>2 A Yep.</p> <p>3 Q So you kind of kept Reed apprized of -- well, I</p> <p>4 should ask, are these -- these are projected</p> <p>5 numbers as of this date in the 29 EBITDA and</p> <p>6 revenue?</p> <p>7 A Operating at estimated -- yes. That's estimated.</p> <p>8 This is projected and projected. Yes.</p> <p>9 Q Okay. And why did you keep Reed apprized of the</p> <p>10 projected software revenue and total revenue?</p> <p>11 A Because that was part of growing the company, to</p> <p>12 keep him apprized of how we were performing.</p> <p>13 Q And those are important measurements of</p> <p>14 performance?</p> <p>15 A One of the important measurements.</p> <p>16 Q Okay. Midway down, it says -- there's a line that</p> <p>17 says Stock Purchase Request. It says -- well, I</p> <p>18 guess, can you read this one so I don't mess it</p> <p>19 up.</p> <p>20 A "In a conversation with Gary this week, he</p> <p>21 requested the purchase of additional Windy Waters</p> <p>22 shares. I communicated that he should have the</p> <p>23 conversation with you. I also told him how I</p> <p>24 would advise you on this request to manage his</p> <p>25 expectations, and that advice is as follows. We</p>	<p>1 Q And so you were just being open with Gary</p> <p>2 basically?</p> <p>3 A Yeah. Gary was a -- yeah, a person I respected</p> <p>4 tremendously. Yes.</p> <p>5 Q And you didn't want him to be blindsided because</p> <p>6 the advice you were giving Reed wasn't necessarily</p> <p>7 what Gary might have wanted to hear?</p> <p>8 A Potentially. I don't know what Gary wanted to</p> <p>9 hear. It was just that I thought it was</p> <p>10 appropriate to tell him.</p> <p>11 Q But you knew Gary wanted to buy shares?</p> <p>12 A I knew that he wanted to buy shares. Yes.</p> <p>13 Q And you were advising Reed not to agree do that;</p> <p>14 right?</p> <p>15 A I was advising Reed that we're offering to buy</p> <p>16 back shares. So -- and that I would not recommend</p> <p>17 to sell more shares. Yes. That's what I wrote.</p> <p>18 Q So not what Gary really wanted probably, based on</p> <p>19 what you knew?</p> <p>20 A Based on his request to buy. Correct.</p> <p>21 Q Based on his request. Right. Yeah. I know you</p> <p>22 can't be in Gary's head. So when you said we've</p> <p>23 been working on buying back shares, that's</p> <p>24 referring to the idea we talked about the -- you</p> <p>25 wanting to buy out the passive shareholders?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 161	Page 163
<p>1 A To offer the buy the passive shareholders, yes.</p> <p>2 Q Right. Well, yeah. I mean you wanted to buy them</p> <p>3 out; of course you couldn't buy them out unless</p> <p>4 they agreed?</p> <p>5 A Correct.</p> <p>6 Q And that -- just take me back to the business</p> <p>7 school reasons because, you know, I -- I have a</p> <p>8 little bit of experience in that area and, you</p> <p>9 know, I understand that companies often prefer to</p> <p>10 have active shareholder bases as opposed to</p> <p>11 passive shareholder bases. Why did you think that</p> <p>12 was a good idea for Widen Enterprises?</p> <p>13 A I thought active shareholders were important to</p> <p>14 running a small business with growth desires, that</p> <p>15 we needed all hands on deck.</p> <p>16 Q Okay. And passive shareholders can be a drain on</p> <p>17 growth if they get dividends; right?</p> <p>18 A Passive shareholders can -- I wouldn't think of it</p> <p>19 like that.</p> <p>20 Q Okay. So what was the problem with passive</p> <p>21 shareholders?</p> <p>22 A Just that they weren't engaged.</p> <p>23 Q Okay. Why is that bad?</p> <p>24 A Because I want all hands on deck. I want</p> <p>25 everybody contributing.</p>	<p>1 desire was 3 to 5 percent. So that was me saying</p> <p>2 EBITDA is low, and we're not hitting that target.</p> <p>3 Q I'm not sure if I understand that. The -- you're</p> <p>4 currently operating at negative 3.6 or negative</p> <p>5 \$1 million EBITDA estimated for the year end?</p> <p>6 A Correct.</p> <p>7 Q So the current EBITDA valuation would be high</p> <p>8 compared to that because when that comes in, if</p> <p>9 that's below your target, that's going to lower</p> <p>10 it; right?</p> <p>11 A I knew the formula to be a weighted EBITDA and</p> <p>12 that this EBITDA number would be part of it, and</p> <p>13 that EBITDA number was not desirable. We didn't</p> <p>14 want to be at that level. We wanted to be at a</p> <p>15 better level. But it was what it was.</p> <p>16 Q But you -- so you saw that as a good time to buy</p> <p>17 back passive shareholders because the valuation</p> <p>18 was low?</p> <p>19 A Yes.</p> <p>20 Q Okay. And you recommended to Reed that he not</p> <p>21 sell shares at that valuation because that</p> <p>22 valuation was low?</p> <p>23 A I recommended we don't sell shares, not</p> <p>24 necessarily because the valuation was low.</p> <p>25 Q Okay. Why did you recommend not to sell more</p>
Page 162	Page 164
<p>1 Q But if they're -- if it's the same people</p> <p>2 contributing at the end because there's just fewer</p> <p>3 shareholders, why does it matter if there's other</p> <p>4 people out there that aren't contributing?</p> <p>5 A I don't know.</p> <p>6 Q Okay. So you said that you've been -- we've been</p> <p>7 working on buying back shares as the weighted</p> <p>8 EBITDA valuation is low. What did you mean there?</p> <p>9 A I mean I know the formula since I'm a shareholder,</p> <p>10 it was based on the weighted EBITDA, and I know</p> <p>11 that relative to where we were wanting to perform</p> <p>12 with EBITDA, the target of EBITDA, we were low.</p> <p>13 We were lower than our target.</p> <p>14 Q Okay. So you thought the target was going to</p> <p>15 rise?</p> <p>16 A The EBITDA target was expressed usually as 3 to</p> <p>17 5 percent, a range. So we would target EBITDA at</p> <p>18 3 to 5 percent.</p> <p>19 Q You were predicting the EBITDA would grow and that</p> <p>20 the valuation based on the EBITDA formula would be</p> <p>21 higher later, so this was low compared to what it</p> <p>22 was going to be?</p> <p>23 A This is low relative to the target. So in 2019,</p> <p>24 if I go back to the projected EBITDA at negative</p> <p>25 3.6 percent, that was off pace, and our pace</p>	<p>1 shares?</p> <p>2 A Because the second half of that, which was focused</p> <p>3 on the offer to buy back passive shareholders.</p> <p>4 Q Okay. And those passive shareholders included</p> <p>5 Stacy?</p> <p>6 A Stacy was a part of that passive shareholder</p> <p>7 group, yeah, and priced before that.</p> <p>8 Q Okay. So she was one of the specific shareholders</p> <p>9 that you had been working on buying out?</p> <p>10 A We didn't -- it was generally thought the passive</p> <p>11 shareholders, yes, organizing let's offer to buy</p> <p>12 passive shareholders back like we did with price.</p> <p>13 And this was, yeah, us organizing, all right, what</p> <p>14 might this look like. And then she ended up</p> <p>15 coming to us and saying --</p> <p>16 Q Sure. We'll get to that. But Stacy's one of the</p> <p>17 specifics -- so you said we have been working on</p> <p>18 buying back shares, and then you said you</p> <p>19 recommend that Reed continue to share buybacks of</p> <p>20 specific shareholders. Stacy's one of the</p> <p>21 shareholders that you recommended continuing the</p> <p>22 buybacks of?</p> <p>23 A To offer to buy the shares back. Yes.</p> <p>24 Q Okay. Offer in order to complete the buyback;</p> <p>25 right?</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 165	Page 167
<p>1 A Correct.</p> <p>2 Q Okay. And when you say as previously outlined,</p> <p>3 when did you previously outline that?</p> <p>4 A I don't know the date of that.</p> <p>5 Q Okay. What were you referring to when you said</p> <p>6 that?</p> <p>7 A Previous conversations around the let's offer to</p> <p>8 buy back passive shareholders.</p> <p>9 Q Those conversations were with -- between you and</p> <p>10 who?</p> <p>11 A Reed.</p> <p>12 Q Okay. Was Michael Kiesler part of those</p> <p>13 conversations?</p> <p>14 A I don't think so.</p> <p>15 Q Did he know of your -- I don't want to put words</p> <p>16 in your mouth, but desire or plan or outline or</p> <p>17 whatever to buy back the passive shareholders?</p> <p>18 A I don't know what he knew.</p> <p>19 Q Okay. You didn't tell Mike?</p> <p>20 A No.</p> <p>21 Q Of that plan?</p> <p>22 A No.</p> <p>23 Q Was this related to the issue we talked about</p> <p>24 earlier about dividends and how that might be a</p> <p>25 more effective way to get compensation to Reed</p>	<p>1 shareholdership as like a drag on growth?</p> <p>2 A I didn't view it as a drag on growth.</p> <p>3 Q So why did you want to buy her out?</p> <p>4 MR. CHURCHILL: Objection to the</p> <p>5 extent it mischaracterizes testimony.</p> <p>6 A I recommended we offer.</p> <p>7 Q I understand. You aren't going to force her to</p> <p>8 buy out. Why did you recommend accomplishing the</p> <p>9 buy out of Stacy?</p> <p>10 A I recommended this because I wanted active</p> <p>11 shareholders. So that was --</p> <p>12 Q We're just right back to the beginning, though.</p> <p>13 I'm saying what was the benefit of the active</p> <p>14 shareholders or the detriment of the passive</p> <p>15 shareholders?</p> <p>16 A Well, I guess evidenced by the Stacy redemptions,</p> <p>17 and I know this wasn't the first time she</p> <p>18 redeemed, which was May in this request, that she</p> <p>19 had previous redemptions. And when she would come</p> <p>20 back to the organization asking for us to help,</p> <p>21 the business would incur expense related to that.</p> <p>22 Q Like attorney's fees?</p> <p>23 A Correct. Yeah, we would have to incur those. And</p> <p>24 my CFO, who I desperately needed in our business,</p> <p>25 was taken away from the operating activities, and</p>
Page 166	Page 168
<p>1 because it would be at a lower tax rate?</p> <p>2 A I'm not relating those two things.</p> <p>3 Q Okay. So the passive shareholder buyback is not</p> <p>4 related to the dividend issue?</p> <p>5 A No.</p> <p>6 Q Okay. That was just -- the passive share back --</p> <p>7 the passive shareholder buyback was just a</p> <p>8 general, I don't know, desire on your part to have</p> <p>9 actively engaged shareholders and not have passive</p> <p>10 shareholders?</p> <p>11 A Correct.</p> <p>12 Q Okay. And is there any specific reasons that you</p> <p>13 saw that as a good thing?</p> <p>14 A All hands on deck.</p> <p>15 Q What does that mean?</p> <p>16 A That means we're all in. I want engaged people in</p> <p>17 the organization.</p> <p>18 Q Okay. How come?</p> <p>19 A Because we could grow faster, in theory. We could</p> <p>20 do more.</p> <p>21 Q Why would the -- why would the shareholders impact</p> <p>22 that?</p> <p>23 A Contributions from the shareholders would advise</p> <p>24 us on how to grow.</p> <p>25 Q I'm -- so was -- did you view Stacy's passive</p>	<p>1 I needed him, especially needed him in COVID time,</p> <p>2 so.</p> <p>3 Q Well, this was preCOVID; right?</p> <p>4 A Yeah. Right. But, yeah. But I know that, yeah,</p> <p>5 she came to us several times. And I know every</p> <p>6 time that happened, Reed wanted to help, Mike had</p> <p>7 to spend time, we had to spend money. And I</p> <p>8 don't -- as a business, I would --</p> <p>9 Q Because Mike would view servicing or dealing with</p> <p>10 the family members as, you know, as important if</p> <p>11 not more important than his normal CFO jobs?</p> <p>12 A Mike would honor those requests. I didn't want</p> <p>13 Mike to be consumed with anything other than the</p> <p>14 operations of the business. So I viewed it as a</p> <p>15 distraction for the person that I need most.</p> <p>16 Q Got it. And you said this didn't relate to the</p> <p>17 dividend issue; right?</p> <p>18 A I don't know -- if we could go back to the context</p> <p>19 of that, it would be helpful.</p> <p>20 Q So I don't want to ask you a question I've asked,</p> <p>21 but I guess now there's a little confusion, on my</p> <p>22 part, at least. Was one of the benefits of not</p> <p>23 having passive shareholders that the active</p> <p>24 shareholders could be paid in a more tax efficient</p> <p>25 manner through dividends as opposed to bonuses or</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 169	Page 171
<p>1 wages?</p> <p>2 A If they were still owed wages and bonuses, they</p> <p>3 would have been paid that.</p> <p>4 Q So it wouldn't have been instead of?</p> <p>5 A I haven't thought through that all the way. I</p> <p>6 don't -- I think they would have been wage and</p> <p>7 bonus earners, and they also would have been</p> <p>8 owed -- they could have been paid dividends.</p> <p>9 Q Okay. But did you ever think about replacing just</p> <p>10 normal compensation with dividends?</p> <p>11 A That was the business school concept in theory</p> <p>12 that I had carried with me, as in what might that</p> <p>13 look like.</p> <p>14 Q Okay. So fair to say one of the benefits to not</p> <p>15 having passive shareholders is that you could pay</p> <p>16 active shareholders what they would have received</p> <p>17 in wages as a dividend instead without having to</p> <p>18 pay the passive shareholders their pro rata chunk</p> <p>19 of that dividend?</p> <p>20 A I would have needed to determine if that was</p> <p>21 acceptable.</p> <p>22 Q Sure. But that was a potential benefit?</p> <p>23 A That was a potential use of -- yeah. Yeah. That</p> <p>24 was a potential benefit based on the theory that I</p> <p>25 carried with me that was --</p>	<p>1 back on the record. The time is 2:17 p.m.</p> <p>2 This is the beginning of media unit number</p> <p>3 four.</p> <p>4 BY MR. PALAY:</p> <p>5 Q Welcome back. Okay. So before this break, I was</p> <p>6 asking you if you had ever looked into replacing</p> <p>7 active owner compensation with dividends after</p> <p>8 Stacy's buyout. And I believe you had said you</p> <p>9 did not look into that, but correct me if I'm</p> <p>10 misstating it.</p> <p>11 A That's correct.</p> <p>12 Q Okay.</p> <p>13 (Exhibit No. 7 was marked for</p> <p>14 identification.)</p> <p>15 Q Okay. Do you recognize what's been handed to you</p> <p>16 as Exhibit 7 as another operational update from</p> <p>17 you to Reed copying Mike Kiesler?</p> <p>18 A Yes.</p> <p>19 Q And this one is dated July 3rd, 2020?</p> <p>20 A Yes.</p> <p>21 Q Okay. Fair to say that was after Stacy's final</p> <p>22 buyout in May 2020?</p> <p>23 A Yes.</p> <p>24 Q Okay. I'd like to direct your attention to the</p> <p>25 bottom of the page. Can you read me the paragraph</p>
Page 170	Page 172
<p>1 Q Okay. And is that something you did end up</p> <p>2 exploring after Stacy's final buyout?</p> <p>3 A No.</p> <p>4 Q Okay. When you say no, you sound pretty sure like</p> <p>5 you never looked into replacing compensation with</p> <p>6 dividend after Stacy's buyout?</p> <p>7 A No. And that was the lowest priority thing for us</p> <p>8 in that moment in time, which was we were all</p> <p>9 about -- that was May 2020. That was all about</p> <p>10 business survivability. There was no room to</p> <p>11 think about anything else.</p> <p>12 Q Okay. But how about at any time after Stacy's</p> <p>13 buyout?</p> <p>14 A No.</p> <p>15 Q Okay.</p> <p>16 MR. CHURCHILL: David, we've been</p> <p>17 going for a while. Is now a good time for a</p> <p>18 break?</p> <p>19 MR. PALAY: Well, it's not the</p> <p>20 best, but that's fine.</p> <p>21 THE VIDEOGRAPHER: We're going off</p> <p>22 the record. The time is 1:56 p.m. This is</p> <p>23 the end of media unit number three.</p> <p>24 (A recess is taken from 1:56 p.m. to 2:17 p.m.)</p> <p>25 THE VIDEOGRAPHER: We are going</p>	<p>1 under the words Dividend Exploration?</p> <p>2 A Yes.</p> <p>3 Q Thank you.</p> <p>4 A "Mike and I chatted about the possibility of</p> <p>5 setting forth a dividend structure which may be</p> <p>6 more tax advantageous than compensation through</p> <p>7 salary and bonus. We need to understand this more</p> <p>8 fully, and Mike is exploring this as a possible</p> <p>9 future financial reward system."</p> <p>10 Q Okay. So does this refresh your recollection at</p> <p>11 all about whether you explored replacing</p> <p>12 compensation with dividends after Stacy's buyout?</p> <p>13 A I don't recall this, but I'm reading it now.</p> <p>14 Q Reading it, does it refresh your recollection on</p> <p>15 any of that or no?</p> <p>16 A It doesn't. No.</p> <p>17 Q Okay. Did you -- you did write this; right?</p> <p>18 A Yes. Yep.</p> <p>19 Q But you just don't recall writing it?</p> <p>20 A Correct.</p> <p>21 Q Okay. Fair to say this is discussing exploring</p> <p>22 replacing compensation with dividends?</p> <p>23 A The possibility of setting forth a dividend</p> <p>24 structure which may be more tax advantageous than</p> <p>25 compensation. And we don't understand it yet. We</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 173	Page 175
<p>1 need to figure that -- what that might look like</p> <p>2 with exploring it. So I don't know that I would</p> <p>3 infer that it is replacing it. It's setting --</p> <p>4 it's the possibility of exploring what it might</p> <p>5 look like.</p> <p>6 Q Right. But it's exploring it because it may be</p> <p>7 more tax advantageous than compensation through</p> <p>8 salary and bonus; right?</p> <p>9 A That's written. Yep.</p> <p>10 Q Okay. So to me that suggests replacing it because</p> <p>11 otherwise it doesn't matter if it's more tax</p> <p>12 advantageous if you're still paying the same tax</p> <p>13 and a compensation?</p> <p>14 A Yeah, I don't recall. I don't recall the</p> <p>15 reference here. But it does -- yeah, it was --</p> <p>16 Q Is that a fair inference by me?</p> <p>17 A I think I would have -- I mean, I would have wrote</p> <p>18 it replacement of. That's not clear here. And</p> <p>19 that we don't understand it and that we need to</p> <p>20 explore it. That's what I read.</p> <p>21 Q Okay. So let's go back -- I know it's not your</p> <p>22 favorite topic, but it's mine -- to talking about</p> <p>23 value and how you thought about value when you</p> <p>24 were the CEO of Widen Enterprises, which I guess</p> <p>25 you still are. Or there is no Widen Enterprises</p>	<p>1 other general managers of other activities in</p> <p>2 different regions of the world that have a general</p> <p>3 manager title.</p> <p>4 Q Got it. Okay. So when we were talking about</p> <p>5 the -- when you asked Mike to pretend that Reed</p> <p>6 sold the company for \$50 million, you said you</p> <p>7 thought about the company -- or you estimated the</p> <p>8 company's value in that circumstance by basically</p> <p>9 estimating a -- or by figuring out a multiple to</p> <p>10 apply to its annual recurring revenues?</p> <p>11 A The formula I used was taking a competitor's</p> <p>12 published acquisition price and then guessing the</p> <p>13 revenue amount and then getting a multiplier to</p> <p>14 then apply to what our projected rates would be to</p> <p>15 be able to say pretend this.</p> <p>16 Q Okay. And then -- and that was an important thing</p> <p>17 to you because it would allow you to measure how</p> <p>18 you were performing relative to Reed just selling</p> <p>19 the company? You were performing to Reed's</p> <p>20 benefit as a -- in comparison to him selling the</p> <p>21 company?</p> <p>22 A In comparison to the -- yeah, what the</p> <p>23 alternatives would be.</p> <p>24 Q Okay.</p> <p>25 A In addition, I also used it internally because we</p>
Page 174	Page 176
<p>1 now is my understanding?</p> <p>2 A Well, I work for Acquia.</p> <p>3 Q Okay. And Acquia owns Widen Enterprises?</p> <p>4 A Acquia acquired Widen Enterprises.</p> <p>5 Q And does Widen Enterprises have its own CEO now?</p> <p>6 A No.</p> <p>7 Q Okay. So help me understand. You run Widen</p> <p>8 Enterprises?</p> <p>9 A No.</p> <p>10 Q Okay. Who runs Widen Enterprises?</p> <p>11 A Acquia. Acquia acquired Widen Enterprises. Widen</p> <p>12 Enterprises is -- there's not an entity referred</p> <p>13 to as Widen Enterprises in an operating way.</p> <p>14 Q It's integrated into Acquia?</p> <p>15 A Correct.</p> <p>16 Q Okay. Got it. And what's your role in Acquia?</p> <p>17 A I'm a general manager of a business unit called</p> <p>18 the content cloud business unit.</p> <p>19 Q Okay. Who do you report to?</p> <p>20 A I report to the CEO.</p> <p>21 Q Okay. How many general managers are there?</p> <p>22 A There are three in total; that includes me.</p> <p>23 Q Okay.</p> <p>24 A Well, clarification there. There are three</p> <p>25 general managers of business units. There are</p>	<p>1 were open with financial information with all</p> <p>2 employees, and there would be a communication that</p> <p>3 is we need to understand that what we need to</p> <p>4 generate as a business is something that is more</p> <p>5 advantageous than that can be garnered in the</p> <p>6 market.</p> <p>7 Q Okay. And that's because, you know, as a</p> <p>8 privately held company, the owners have the option</p> <p>9 to sell the company?</p> <p>10 A In a privately held company, the owners have the</p> <p>11 option to sell the company. Generally.</p> <p>12 Q I mean, is that why you saw that as the</p> <p>13 alternative to you running the company was Reed</p> <p>14 selling the company?</p> <p>15 A It was an alternative to a return as in are we</p> <p>16 growing fast enough, are we agreeing to the degree</p> <p>17 that we need to grow.</p> <p>18 Q Okay. And was that a metric, the application of a</p> <p>19 multiple to annual recurring revenues that you</p> <p>20 used to estimate the company's value at any other</p> <p>21 times other than that one we discussed?</p> <p>22 MR. CHURCHILL: Objection.</p> <p>23 Ambiguous.</p> <p>24 A I would take other activity in market and guess</p> <p>25 what that was, and then I would apply that to</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 177	Page 179
<p>1 Widen numbers.</p> <p>2 Q And by apply that, I'm just asking is it -- were</p> <p>3 you applying a multiple to Widen's annual</p> <p>4 recurring revenue?</p> <p>5 A I applied that multiple that I would estimate to</p> <p>6 Widen's annual recurring revenue.</p> <p>7 Q Okay.</p> <p>8 A On occasion. Yes.</p> <p>9 Q That was how you estimated the value of Widen</p> <p>10 Enterprises?</p> <p>11 MR. CHURCHILL: Objection.</p> <p>12 Ambiguous.</p> <p>13 A That wasn't an estimate of the value of Widen</p> <p>14 Enterprises.</p> <p>15 Q Okay. In the prior communication, I think you</p> <p>16 said to assume a value of \$50 million; right?</p> <p>17 A Assume. Correct.</p> <p>18 Q Okay. And the way --</p> <p>19 MR. CHURCHILL: Objection.</p> <p>20 Misstates the document.</p> <p>21 MR. PALAY: How so?</p> <p>22 A Pretend.</p> <p>23 MR. CHURCHILL: Pretend company</p> <p>24 valuation is \$50 million.</p> <p>25 BY MR. PALAY:</p>	<p>1 Q Okay. So did you ever at any other time use the</p> <p>2 method of applying a multiple to Widen's annual</p> <p>3 recurring revenue to arrive at an estimation of</p> <p>4 Widen's valuation or value?</p> <p>5 A I would do that for purposes of are we headed in</p> <p>6 the right direction.</p> <p>7 Q Is that a yes?</p> <p>8 A I didn't do it for purposes of valuation. I did</p> <p>9 it for purposes of here's what's going on in the</p> <p>10 market, and that's a good signal or a good</p> <p>11 indicator as to our ability to grow and continue</p> <p>12 to grow in this market.</p> <p>13 Q Okay. I guess the confusion is I'm not asking you</p> <p>14 why you did the exercise, I'm asking if the</p> <p>15 exercise of applying a multiple to Widen's annual</p> <p>16 recurring revenue was something you had done or</p> <p>17 you did at other times to arrive at a valuation of</p> <p>18 Widen for whatever reason you wanted to arrive at</p> <p>19 that number?</p> <p>20 A I used it for the reasons as stated. I used it</p> <p>21 for the reason of assigning that multiple to Widen</p> <p>22 numbers to ensure that the direction we were going</p> <p>23 was right for the growth expectations that we had.</p> <p>24 But it was not -- I did not assign a value to the</p> <p>25 company through that means. It was a</p>
Page 178	Page 180
<p>1 Q Okay. So that is how you would -- applying a</p> <p>2 multiple to Widen's annual recurring revenue is</p> <p>3 how you would estimate its valuation?</p> <p>4 A No.</p> <p>5 Q What's incorrect about that?</p> <p>6 A Applying a multiple of revenue from another</p> <p>7 transaction to our numbers was a way to look at</p> <p>8 what the company opportunity was for future</p> <p>9 growth.</p> <p>10 Q Well, but you asked Mike to pretend company</p> <p>11 valuation is \$50 million.</p> <p>12 A In that context, it was for generating a return in</p> <p>13 growth compared to what that alternative was, so.</p> <p>14 Q But you way you arrived at the valuation of</p> <p>15 \$50 million was applying a multiple that you</p> <p>16 figured out to Widen's annual recurring revenue?</p> <p>17 A I took an estimate from the WebDAM transaction and</p> <p>18 then applied that to the Widen annual recurring</p> <p>19 revenue.</p> <p>20 Q And that gave you a valuation?</p> <p>21 A That gave me a number to pretend that we could run</p> <p>22 through this exercise.</p> <p>23 Q And you called that number a valuation?</p> <p>24 A I said let's pretend this is a \$50 million</p> <p>25 valuation.</p>	<p>1 understanding that we're headed in the right</p> <p>2 direction because these are the market activities.</p> <p>3 Q Did you ever call it a value or valuation?</p> <p>4 A I don't know.</p> <p>5 Q Okay. Did you ever share an opinion about what</p> <p>6 Widen's value was at any point in time with anyone</p> <p>7 else at the company ever?</p> <p>8 A I don't think so.</p> <p>9 Q Okay. Never once shared an estimation in your</p> <p>10 view of what the company was worth?</p> <p>11 A I don't recall.</p> <p>12 Q Okay. Never told Reed what you thought the</p> <p>13 company was worth?</p> <p>14 A I would provide Reed the updates of market</p> <p>15 activity.</p> <p>16 Q Did that ever include telling him that, you know,</p> <p>17 my best estimate of Widen's value is X or Y?</p> <p>18 A I don't know.</p> <p>19 Q Okay.</p> <p>20 (Exhibit No. 8 was marked for</p> <p>21 identification.)</p> <p>22 Q Okay. Mr. Gonnering, Exhibit 8 that's been handed</p> <p>23 to you appears to me to be a December 1st, 2014,</p> <p>24 email. Well, two emails, I should say. There's</p> <p>25 one from you to a group of people, and then it</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 181	Page 183
<p>1 looks like Gary Norris responds to your email</p> <p>2 later that same day; is that accurate?</p> <p>3 A That is accurate.</p> <p>4 Q Okay. And in the first email from you, which it</p> <p>5 looks like went to the group of Mike Kiesler, Reed</p> <p>6 Widen, and Gary Norris, you said, "For valuation</p> <p>7 reference, an article from Milwaukee Business</p> <p>8 Journal, snippets from the article. Research firm</p> <p>9 Gartner estimated that global spending on SaaS</p> <p>10 will reach \$22.1 billion by 2015. SaaS mergers</p> <p>11 and acquisitions transactions grew 25 percent last</p> <p>12 year, and the median SaaS exit multiple was more</p> <p>13 than double that paid for traditional on premise</p> <p>14 software targets.</p> <p>15 The valuations of SaaS companies are about</p> <p>16 twice those of traditional licensed software</p> <p>17 companies gathering the same revenues.</p> <p>18 Traditional software companies have an average</p> <p>19 enterprise value of three times revenue, while</p> <p>20 SaaS companies traded a much higher multiple of</p> <p>21 6.5 times revenue. If you're keeping score at</p> <p>22 home, that's 8 million times 6.5 equals 52</p> <p>23 million. If you throttled the EBITDA for purposes</p> <p>24 of market valuation, perhaps we return at 2</p> <p>25 million times 12 equals 24 million. Market value</p>	<p>1 validating that we're making the right decisions</p> <p>2 to grow the business.</p> <p>3 Q Okay. You say market value somewhere between 24</p> <p>4 and 52 million and going up; right?</p> <p>5 A I do say that. Yes.</p> <p>6 Q Okay. I mean, is there any way to understand that</p> <p>7 other than an estimate of the company's market</p> <p>8 value?</p> <p>9 A The way to understand it is to say we're in the</p> <p>10 right market, there's growth to be had, and this</p> <p>11 is good indication of that.</p> <p>12 Q Okay. Mr. Gonnering, so there's going to be a</p> <p>13 trial in this case, I'm going to call you as a</p> <p>14 witness, and I'm going to ask you, when you say</p> <p>15 market value somewhere between 24 and 52 million</p> <p>16 and going up, is that an estimation of the market</p> <p>17 value of Widen Enterprises. What's your response</p> <p>18 going to be?</p> <p>19 A My response is going to be I took estimates.</p> <p>20 Q I mean, I'm going to -- in the trial, I'm going to</p> <p>21 be a little meaner. I'm going to say yes or no.</p> <p>22 Is that an estimation of the company's market</p> <p>23 value?</p> <p>24 A I wrote market value between 24 and 52 million.</p> <p>25 That doesn't mean that the company's market</p>
Page 182	Page 184
<p>1 somewhere between 24 to 52 million and going up."</p> <p>2 Did I read that right?</p> <p>3 A You did.</p> <p>4 Q Okay. Fair to say --</p> <p>5 A Well, yeah. Okay. Sorry.</p> <p>6 Q No, please.</p> <p>7 MR. CHURCHILL: Everything but one</p> <p>8 word.</p> <p>9 MR. PALAY: Okay. Well, okay.</p> <p>10 Well, I noticed you didn't correct</p> <p>11 Mr. Gonnering, but what did I miss, Mark.</p> <p>12 MR. CHURCHILL: You said gathering</p> <p>13 instead of generating in the third bullet.</p> <p>14 That's a minor point. We'll let it slide.</p> <p>15 MR. PALAY: Okay. Appreciate it.</p> <p>16 BY MR. PALAY:</p> <p>17 Q Fair to say this email is telling Reed, Mike</p> <p>18 Kiesler, and Gary Norris an estimate of the</p> <p>19 company's market value?</p> <p>20 A This is providing a reference to an article from</p> <p>21 the Milwaukee business journal from Gartner</p> <p>22 talking about the delivery models of SaaS versus</p> <p>23 installed. And then what I'm doing is I'm</p> <p>24 estimating based on these analyst numbers what</p> <p>25 that might look like for us for the purpose of</p>	<p>1 valuation was that. I show the assumptions that I</p> <p>2 make, and the reason for these is to indicate that</p> <p>3 we're in the right -- we're playing in the right</p> <p>4 market.</p> <p>5 Q But I'm not asking you if that was the true and</p> <p>6 final number. It's a large range. I'm just</p> <p>7 asking you was that an estimation by you of the</p> <p>8 company's market value?</p> <p>9 A That was an estimate based on the assumptions that</p> <p>10 I expressed here of what an EBITDA or a revenue</p> <p>11 formula would look like.</p> <p>12 Q Okay. And let's talk about that. You said</p> <p>13 that -- or one thing you took from this article</p> <p>14 apparently is that SaaS companies trade at a much</p> <p>15 higher multiple of 6.5 times revenue; is that</p> <p>16 right?</p> <p>17 A That's a bullet point which appears to be a lift</p> <p>18 directly from that article. Yes.</p> <p>19 Q Okay. And did you believe that was correct at the</p> <p>20 time?</p> <p>21 A I believed that SaaS or software as a service was</p> <p>22 a better delivery model than installed software.</p> <p>23 Q Did you believe it traded at a multiples of 6.5</p> <p>24 times revenue?</p> <p>25 A I don't know.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 185	Page 187
<p>1 Q You told your boss that.</p> <p>2 A I told my boss this with the expression of we're</p> <p>3 in the right business. We're delivering software</p> <p>4 the right way.</p> <p>5 Q But you did tell your boss that?</p> <p>6 A I wrote below a summary of that, which is</p> <p>7 revealing to us that we're in the right place.</p> <p>8 Q Okay. And this was in 2014. This was a long time</p> <p>9 ago. Did you ever learn that that was not true,</p> <p>10 that SaaS companies trade at multiples of 6.5</p> <p>11 times revenue?</p> <p>12 A Did I ever learn that was not true. I don't</p> <p>13 recall.</p> <p>14 Q Okay. You don't recall ever learning that that</p> <p>15 was not true?</p> <p>16 A No.</p> <p>17 Q Okay. Do you recall ever telling Reed,</p> <p>18 Mr. Kiesler, and Mr. Norris that that was not true</p> <p>19 after sending this email?</p> <p>20 A I did not say that that was not true.</p> <p>21 Q After sending this email?</p> <p>22 A I didn't say that that's not true. It's not true</p> <p>23 that -- let me pause. I didn't say that it wasn't</p> <p>24 true that SaaS companies were trading at a higher</p> <p>25 multiple of six and a half times. I cited the</p>	<p>1 A No.</p> <p>2 Q Never?</p> <p>3 A I don't recall.</p> <p>4 Q Okay. Do you have any reason to believe you never</p> <p>5 have discussed it, though?</p> <p>6 A Do I have any reason to believe I've never</p> <p>7 discussed it. It was discussed by people at</p> <p>8 Acquia as a -- as a result of it, but I wasn't</p> <p>9 discussing it.</p> <p>10 Q So what was the result of that?</p> <p>11 A I don't remember the reference.</p> <p>12 Q Okay. Who at Acquia discussed it?</p> <p>13 A It would have been the former CEO.</p> <p>14 Q The person who was the CEO at the time of the</p> <p>15 purchase of Widen Enterprises?</p> <p>16 A It would have been the former CEO of Acquia.</p> <p>17 Q Who was the CEO at the time of the purchase of</p> <p>18 Widen Enterprises?</p> <p>19 A Correct.</p> <p>20 Q Okay. You talked to him about this after the</p> <p>21 sale?</p> <p>22 A I wouldn't have talked to him about it after the</p> <p>23 sale. He would have made a casual reference to</p> <p>24 it.</p> <p>25 Q Okay. And do you -- you don't recall what the</p>
Page 186	Page 188
<p>1 article where that reference was made.</p> <p>2 Q Oh, okay. Did you ever learn that that reference</p> <p>3 from the article was not correct?</p> <p>4 A I didn't pursue it after that. I didn't know.</p> <p>5 Q Okay. Have you since then until today come upon</p> <p>6 knowledge that SaaS companies do not in fact trade</p> <p>7 at multiples of 6.5 times revenue?</p> <p>8 A The examples with other companies in our market</p> <p>9 based on rough estimates would have revealed that</p> <p>10 SaaS companies are not at that rate.</p> <p>11 Q What rate would it have revealed?</p> <p>12 A The WebDAM transaction for example, when I</p> <p>13 estimated that, I believe I estimated that given</p> <p>14 the sale price and then the here's what I think,</p> <p>15 and I think I stated that one was three to five</p> <p>16 times revenue.</p> <p>17 Q Okay.</p> <p>18 A And that would be not six and a half times.</p> <p>19 Q What did Widen Enterprises sell to Acquia for how</p> <p>20 many -- how many times its annual recurring</p> <p>21 revenue?</p> <p>22 A I don't recall that --</p> <p>23 Q You don't know?</p> <p>24 A -- ratio. No.</p> <p>25 Q Okay. Have you ever discussed that ratio?</p>	<p>1 ratio that he referenced was?</p> <p>2 A No. It would have been the sale price divided by</p> <p>3 the annual recurring revenue.</p> <p>4 Q Okay. And that would be -- so we know the annual</p> <p>5 recurring revenue for Widen Enterprises in the</p> <p>6 last complete year before the sale; right?</p> <p>7 A We know the annual recurring revenue of Widen in.</p> <p>8 Q 2020?</p> <p>9 A -- 2020.</p> <p>10 Q Okay. We know the sale price?</p> <p>11 A Yep.</p> <p>12 Q So let's do it. So the annual recurring revenue</p> <p>13 for 2020 --</p> <p>14 MR. CHURCHILL: Can you just point</p> <p>15 me where you're reading from.</p> <p>16 MR. PALAY: Sorry. I'm getting</p> <p>17 this from Windy 7985 in I believe Exhibit 2.</p> <p>18 And if anyone else would rather do this</p> <p>19 calculation, I would be --</p> <p>20 MR. CHURCHILL: Could have Matthew</p> <p>21 do it.</p> <p>22 BY MR. PALAY:</p> <p>23 Q Matthew, do you have a calculator?</p> <p>24 A I do not.</p> <p>25 Q Okay. Lucky you.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 189	Page 191
<p>1 A I would say also that you could pull it off of the 2 SIM. 3 Q Yeah. 4 A And, yeah, and that's a place to go, but we should 5 reference that this is -- I don't know that this 6 is an audited statement or is it the Grant 7 Thornton -- 8 Q Hey, you guys sold securities based on it, not me. 9 I don't know if this is accurate or not. But 10 let's use the numbers that Acquia was told. Fair? 11 A Yeah. The numbers that -- this is a summary of 12 those numbers. The numbers would have been 13 through due diligence. There would have been 14 financial diligence done not only by Grant 15 Thornton, but also Vista Equity Partners, their 16 financial teams, as well as Acquia's financial 17 teams. 18 Q Okay. Well -- 19 A There's a lot of people going through those 20 numbers. 21 Q We can see if that changes, but this number was 22 represented to Acquia in this confidential 23 information memorandum; correct? 24 A Correct. 25 Q And it was as accurate as you could be at that</p>	<p>1 Q I mean, you didn't want to give Reed inaccurate 2 information, did you? 3 A No. 4 Q Did you want to give him accurate information? 5 A I wanted to give him information that was in this 6 case published in the public and so that he was 7 aware of what Gartner was saying about the 8 delivery model of SaaS versus installed. 9 Q But I'm just asking generally, like you would not 10 have wanted to give Reed information that you 11 thought was inaccurate, would you? 12 A I would not give Reed inaccurate information. 13 Q Okay. It wasn't a trick question. Did you ever 14 estimate Widen Enterprises' market valuation at 15 \$63 million? 16 A I don't recall. 17 Q Okay. 18 (Exhibit No. 9 was marked for 19 identification.) 20 Q Okay. What's been handed to you and marked as 21 Exhibit 9 looks to be another operational update 22 from you to Reed and Mr. Kiesler dated 23 February 23, 2018; is that accurate? 24 A To Reed with a copy to Mike. 25 Q Yes.</p>
Page 190	Page 192
<p>1 time; correct? 2 A Correct. 3 Q Okay. And so the number is 26,52,223? 4 A Yep. 5 Q So I'm going to divide 162 million by that number; 6 is that fair? 7 A Yep. 8 Q Okay. Okay. I get 6.218, so I'm going to go with 9 6.22 or 6.2. Okay? 10 A Okay. 11 Q Fair? Does that sound reasonable to you? 12 A I agree with the math and how you explained it. 13 Q Okay. So fair to say whether or not this is how 14 Acquia determined it, Widen Enterprises sold for a 15 multiple of 6.2 times its annual recurring 16 revenue? 17 A Acquia paid Widen 6.2 as a multiple of revenue if 18 we were to isolate that number. 19 Q Got it. Okay. Did you believe the information 20 that you provided to Reed in this 2014 email, 21 Exhibit 8, was accurate at the time that you 22 provided it? 23 A I believe that the analysts, in this case Gartner, 24 has a good reputation and that they're providing 25 information that is helpful.</p>	<p>1 A To Reed. 2 Q Yes. But Mike received it; right? 3 A Mike was copied. 4 Q What's the distinction? 5 A This is to Reed. 6 Q But Mike received it? 7 A He was a carbon copy. 8 Q Okay. Just tell me if there's any reason for you 9 to believe that Mike didn't receive it because he 10 was CC'd as opposed to added in the to line? 11 A I think it was a reference to this is to Reed and 12 Mike was copied on it. 13 Q I understand. Yeah. You're writing to Reed. 14 A Correct. 15 Q I just meant that he -- isn't that what it means 16 to get a carbon copy of it, you receive a copy of 17 it? 18 A He got a copy of it. 19 Q Yeah, he got a copy of it. Cool. So the second 20 paragraph here, can I ask you to read that one, 21 the one under valuation. 22 A "Shutterstock acquired WebDAM a handle of years 23 ago for approximately 12 million. Bynder acquired 24 WebDAM from Shutterstock for approximately 49 25 million. WebDAM was likely close to our software</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 193	Page 195
<p>1 revenue totals, possibly less. I am unsure of any 2 other sizzle in the deal, but if it's straight up 3 DAM, then my guess is the valuation was three to 4 four X revenue. If they were equivalent to our 5 software revenue last year, parens, 14 million, 6 end parens, then it works out to 3.5 X revenue. 7 Using our projected 2018 software revenue of 18 8 million, our market valuation on 3.5 X revenue is 9 63 million."</p> <p>10 Q Thank you. Okay. So this is now at least the 11 third time I have seen a writing from you 12 referencing the value or valuation of Widen 13 Enterprises. Fair?</p> <p>14 A This is, yeah, another occasion where I am using 15 other activity in the market as a reference to the 16 growth potential that we have and that we're 17 moving in the right direction.</p> <p>18 Q Right. But it says using our projected 2018 19 software revenue of \$18 million, our market 20 valuation on 3.5 X revenue is \$63 million; right?</p> <p>21 A That's what it says.</p> <p>22 Q Okay. Fair to say that's an estimation of Widen 23 Enterprises market valuation as of this date based 24 on the -- based on the 3.5 X as an assumption?</p> <p>25 A I use these assumptions and apply those</p>	<p>1 Q But it's as of that day that's the projected 2 software revenue; right?</p> <p>3 A As of that day, that was the projected year-end 4 software revenue, 18 million.</p> <p>5 Q Okay. So, you know, to keep Reed informed that 6 you believe the company was in the right market 7 and going in the right direction, you let him know 8 that you believed the company had an estimated 9 market valuation of \$63 million?</p> <p>10 A Yeah. I took the multiplier to our revenue and 11 said we're going in the right direction. That's 12 what that says.</p> <p>13 Q Did you ever get to any estimates of market 14 valuation of widen higher than 63 million?</p> <p>15 A I don't recall.</p> <p>16 Q If the annual recurring revenue had gone higher 17 than it was projected in this projection at 18 18 million, would that have meant a higher estimated 19 market valuation?</p> <p>20 MR. CHURCHILL: Objection to the 21 extent it calls for expert testimony. You 22 can answer.</p> <p>23 A If we had a higher projected 2018 software 24 revenue, then you're saying that some would be 25 higher.</p>
Page 194	Page 196
<p>1 assumptions to our revenue to determine if we were 2 headed in the right direction. So directionally 3 we were going in the right --</p> <p>4 Q What do you mean directionally? You mean because 5 63 million is bigger than the last estimate in 6 2014 at 52 million?</p> <p>7 A That we're in a market that is responding to 8 growth, that is capable of growing. So these are 9 good indicators that we are in a market that is 10 active and that has potential, that has growth 11 opportunities. And our directive is to grow and 12 so that's what these reveal.</p> <p>13 Q Okay. So the point of sending this to Reed was to 14 let him know that you believed the company was on 15 the right track in the right market?</p> <p>16 A We were headed in the right direction and that the 17 growth potential was there for us to keep growing.</p> <p>18 Q But this is an estimate of the estimate of the 19 value -- of the market valuation of Widen 20 Enterprises on this day right? This isn't a 21 projected future valuation?</p> <p>22 A It's projected because it says projected software 23 revenue, so.</p> <p>24 Q Okay. So at the end of 2018?</p> <p>25 A Right. There's a projection in here.</p>	<p>1 Q I'm asking you to -- yeah, I mean, that's what it 2 says to me, but is that true?</p> <p>3 A Well the formula would, yeah, determine that. 4 Yeah. If you insert a bigger number, then, yeah, 5 and you multiply it by the same, then you would 6 have a bigger number.</p> <p>7 Q Did the annual recurring revenue ever decrease 8 from 2018 through the sale in 2021?</p> <p>9 A I don't recall.</p> <p>10 Q It's only three years.</p> <p>11 A Right.</p> <p>12 Q You don't know if it decreased year over year 13 during that period?</p> <p>14 A I can't confirm that it did. I think we were in 15 the growth mode. I don't think it did, but I 16 would want to confirm.</p> <p>17 Q Okay. So why did you think it was important for 18 Reed to have this information?</p> <p>19 A To indicate that we're making the right decisions, 20 that we're in the right direction.</p> <p>21 Q So to keep doing what you're doing?</p> <p>22 A To keep growing and that the growth potential is 23 there.</p> <p>24 Q Okay.</p> <p>25 A And that by way of these, it's -- people are</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 197	Page 199
<p>1 participating in this market, there's customers to 2 be earned here, and this is a -- this is good. 3 We're in a good, healthy, attractive market. 4 <b>Q It's good for your valuation to go up; right?</b> 5 A Good for the growth of the company so that we can 6 continue growing, which is the objective. 7 <b>Q Okay. So the objective is not to be more</b> 8 <b>valuable, it's to -- just to grow?</b> 9 A It's to grow. 10 <b>Q Okay. Why is that the objective? Just wondering.</b> 11 A Well, the alternative is less favorable, so if 12 you're growing you're stagnant or your not 13 growing. But growing is good because growing is 14 we've got a good product market fit, we have the 15 ability to help solve more customer problems, so 16 more customers will come to us because we've got 17 the right product. Growth is good because we can 18 also increase the employment. Growth is good 19 because we can also contribute back to the 20 community. So -- growth is good because we could 21 also increase profitability. So growth is good 22 for those reasons, and I don't represent that to 23 be comprehensive, but those are a few things. 24 <b>Q That makes sense. Okay. So valuation is sort of</b> 25 <b>a metric in gauging growth?</b></p>	<p>1 asked what they do with a minority stake, they 2 communicated several options: One, sell to a 3 larger private equity firm; two, take a majority 4 stake; or three, sell back to Widen. 5 In my own reflection, new product velocity 6 and risk reduction come to mind as benefits. If 7 we are valued at 80 million, parens, four X 8 software revenue of 20 million, end parens, then a 9 10 percent stake provides us 8 million in capital 10 to deploy into labor and marketing our new 11 ventures. 12 On the risk reduction front, the risk of 13 funding our growth is then shared as we scale up. 14 Of course, there are other consequences to a 15 minority stake, but sharing to keep your options 16 open." 17 <b>Q Thank you. Okay. So you said you responded to a</b> 18 <b>private equity firm to listen. Is that correct?</b> 19 A That's correct. 20 <b>Q What do you mean you responded? Responded to</b> 21 <b>what?</b> 22 A I would have responded to some kind of outreach. 23 <b>Q Okay. And that's something you had done</b> 24 <b>infrequently, you said?</b> 25 A Correct.</p>
Page 198	Page 200
<p>1 A This is a way to say are we in the right market, 2 are we making the right directional moves. 3 <b>Q Okay.</b> 4 A And this says, yeah, this is directionally right. 5 (Exhibit No. 10 was marked for 6 identification.) 7 <b>Q Okay. Exhibit 10 that you now have appears to be</b> 8 <b>an August 10th, 2018, operational update from you</b> 9 <b>to Reed with a carbon copy to Mr. Kiesler. Is</b> 10 <b>that accurate?</b> 11 A August 10th, 2018, to Reed, copy to Mike. Yes. 12 <b>Q Okay. I'm going to ask you to read again. Can</b> 13 <b>you read the second to last paragraph under</b> 14 <b>Minority Stake Interest.</b> 15 A Yes. 16 <b>Q Thank you.</b> 17 A "As I have infrequently done in the last handful 18 of years, I responded to a private equity firm, 19 Five Elms Capital, to listen. They focus on B2B 20 SaaS companies, have 300 million in investments, 21 and are investing out of a 150 million now. They 22 complete with Insight Ventures, parens, the 23 company funding Bynder, end parens, and have been 24 looking into the DAM space for several years. 25 They expressed interest in a minority stake. When</p>	<p>1 <b>Q Was -- did you frequently receive outreach from</b> 2 <b>private equity firms?</b> 3 A Yes. 4 <b>Q Okay. How often?</b> 5 A I would -- 6 MR. CHURCHILL: Objection. Vague 7 as to time frame. 8 A During what time period? 9 <b>Q So this is 2018, let's say 2017 through 2019.</b> 10 A 2017 to 2019. I don't know the volume, but I do 11 know that they are a -- there's a lot of sales 12 emails that you would receive, and I still receive 13 them to this day. Even though Widen doesn't 14 exist, I receive them for Widen. 15 <b>Q Okay.</b> 16 A So that's -- that would be typical marketing 17 outreach. 18 <b>Q What do you mean by marketing outreach?</b> 19 A An email, and I don't recall calls in the time 20 period that you're referring to, but -- so I would 21 say frequently it would be email. 22 <b>Q Okay. And I'll just say we -- do you think this</b> 23 <b>was an email that you received?</b> 24 A I don't know. 25 <b>Q Okay. But you did receive emails from private</b></p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 201	Page 203
<p>1 equity firms in this period?</p> <p>2 A I received emails from private equity firms in</p> <p>3 this period that were, yeah, marketing, marketing</p> <p>4 emails.</p> <p>5 Q So what did these private equity firms want from</p> <p>6 you?</p> <p>7 A They want to invest.</p> <p>8 Q Okay. They want to buy out minority stake or a</p> <p>9 majority stake or the whole thing of Widen</p> <p>10 Enterprises?</p> <p>11 A In this -- private equity firms generally have</p> <p>12 funds that they invest, and they want to either</p> <p>13 buy a company, all or part of it. In some cases</p> <p>14 they're also simply gaining intelligence.</p> <p>15 Q Okay. Did you discuss, like -- you know, what you</p> <p>16 know did you discuss with Five Elms?</p> <p>17 A I don't recall.</p> <p>18 Q Did you discuss, you know, how much money they</p> <p>19 would want to invest?</p> <p>20 A No. I don't recall.</p> <p>21 Q Okay. Did they bring up, you know, this 10</p> <p>22 percent stake that you raised?</p> <p>23 A I don't recall.</p> <p>24 Q Okay. Any idea why you would just -- why you</p> <p>25 would use the 10 percent stake number?</p>	<p>1 Q And why did you tell Reed this?</p> <p>2 A This was again the -- we were in the right</p> <p>3 direction. There's growth opportunity here. The</p> <p>4 other activity here is good to think about, where</p> <p>5 would we invest. And so when we think about how</p> <p>6 might we invest in our growth, we might invest in</p> <p>7 new product philosophy, we might invest in risk</p> <p>8 reduction. So I tell Reed this because it's,</p> <p>9 again, good directional information for if we're</p> <p>10 going to keep growing.</p> <p>11 Q It wasn't to actually consider taking a 10 percent</p> <p>12 minority investor on?</p> <p>13 A No.</p> <p>14 Q Okay. But -- so why do you go through the trouble</p> <p>15 of talking about how you would use those funds and</p> <p>16 what the risks or consequences of a minority</p> <p>17 investor are?</p> <p>18 A I go through the process of that to say we need to</p> <p>19 be paying attention to new product velocity and</p> <p>20 risk reduction as we continue to grow, and that</p> <p>21 the consequence of minority stake is -- I'm not</p> <p>22 sure.</p> <p>23 Q Where do you say that? I don't see where you say</p> <p>24 that.</p> <p>25 A The product velocity and risk reduction?</p>
Page 202	Page 204
<p>1 A No, I don't.</p> <p>2 Q Okay. And fair to say you estimate Widen</p> <p>3 Enterprises' market value at \$80 million here?</p> <p>4 A No. That's an if. If we are.</p> <p>5 Q Yeah.</p> <p>6 A So it's not me valuing the company.</p> <p>7 Q What is it?</p> <p>8 A It's me giving a hypothetical of pretend this for</p> <p>9 a second and now let's go with the rest of the</p> <p>10 story.</p> <p>11 Q Okay. So you hypothetically valued the company at</p> <p>12 \$8 million?</p> <p>13 A I put that number in there as a place holder to</p> <p>14 get to the real part of the conversation, which is</p> <p>15 following in that sentence.</p> <p>16 Q Sure. But \$80 million came from somewhere; right?</p> <p>17 A In parentheses, we can see where that came from.</p> <p>18 Q Four times software revenue of \$20 million?</p> <p>19 A Correct.</p> <p>20 Q Okay. Pretty consistent with the last couple</p> <p>21 estimations we've looked at?</p> <p>22 A Use of the WebDAM formula being applied several</p> <p>23 times.</p> <p>24 Q Okay.</p> <p>25 A Yes.</p>	<p>1 Q Yeah.</p> <p>2 A That would be in my own reflection, new product</p> <p>3 velocity and risk reduction come to mind as</p> <p>4 benefits.</p> <p>5 Q Benefits of a minority investment?</p> <p>6 A Benefits of our growth, benefits of what we need</p> <p>7 to be paying attention to as we continue to grow.</p> <p>8 Q I'm just not seeing it. I mean, you're talking</p> <p>9 about getting \$8 million in capital to deploy into</p> <p>10 labor and marketing or new ventures; right?</p> <p>11 A Yep.</p> <p>12 Q I mean, that doesn't -- that sounds like you're</p> <p>13 talking about taking \$8 million from Five Elms</p> <p>14 Capital for 10 percent of the company and what you</p> <p>15 would use that money for?</p> <p>16 A No.</p> <p>17 Q No?</p> <p>18 A No.</p> <p>19 Q Okay. Where -- why -- what does that mean?</p> <p>20 A That says we should consider investment in new</p> <p>21 product velocity and risk reduction, and if we</p> <p>22 were able to generate more, we could continue to</p> <p>23 grow, but we need to pay attention to new product</p> <p>24 velocity and risk reduction.</p> <p>25 Q See, I just don't -- I just don't see that in the</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 205	Page 207
<p>1 paragraph. What I see is it says if we're valued 2 at \$80 million, I'll skip the paren, then a 10 3 percent stake provides us \$8 million in capital to 4 deploy into labor and marketing or new ventures on 5 the risk reduction front, the risk of funding our 6 growth is then shared as we scale up. And that 7 means shared with the outside investor; right? 8 A Yep. 9 Q Okay. And of course there are consequences to a 10 minority stake, but sharing to keep your options 11 open; right? 12 A Uh-huh. 13 Q I mean, explain how this is not, you know, sharing 14 the potential for minority investor to keep Reed's 15 options open for potentially taking a minority 16 investor on? 17 A Yeah. Again, I would say directionally this is 18 just revealing that we're in the right place. 19 There is interest from other companies, and 20 they're investing in these markets, and that's 21 good. And if -- 22 Q Where does it say that, though? 23 A Well, it says it by way of here's a B2B SaaS 24 company, they've got 300 million in investments, 25 and they're investing out of 100 million --</p>	<p>1 exercise of what if we had \$8 million and we're 2 going to invest in new product velocity and risk 3 reduction. And it's also to say we're going in 4 the right direction. There's a -- there's 5 interest in this market, continued interest in 6 this market. 7 Q Okay. Did you say pretend anywhere in here? 8 A I say -- do I use the word pretend. I use the 9 word if. 10 Q Okay. And if means pretend? 11 A If means pretend with me for a second here. 12 Q Okay. What's the point of mentioning Five Elms at 13 all if the only thing you wanted to communicate 14 was to pay attention to new product velocity and 15 risk reduction? 16 A It's me reporting up to Reed as part of the 17 operational updates that these are some of my 18 activities, this is what I'm doing. And it's 19 further validating that there's another company, a 20 company in this market that's validating that this 21 is -- there's growth potential here. 22 Q Okay. What were the options that you were 23 referring to Reed keeping open? 24 A I don't recall. 25 Q Anything that would refresh your recollection on</p>
Page 206	Page 208
<p>1 \$150 million fund now. They compete with a 2 private equity fund that owns a competitor of 3 ours, and they've been looking into DAM for 4 several years. So that says, great, there's 5 people looking at this market, and that means 6 there's growth potential here. 7 Q Okay. So you're, like, reading between the lines? 8 You're not -- you didn't come out and say that, 9 that's just the implication of what you're saying? 10 A That's the -- yeah, that's the -- that's what I'm 11 reading through this. 12 Q Okay. 13 A Yes. 14 Q So, I'm sorry, but like I see it says if we're 15 valued at \$80 million, four times software revenue 16 of 20 million, and you're telling me it doesn't 17 say that, it says something that isn't said in 18 this paragraph, and I just don't understand. 19 A Yeah. That says pretend we're this, and then 20 let's pretend also that we've got \$8 million, 21 wherever that 8 million comes from. But how would 22 we -- 23 Q Well, you say where it comes from? 24 A In this example, yeah. And it is an example to 25 say, you know, in one way, let's look at an</p>	<p>1 what those options were? 2 A No. I just don't recall. 3 Q Okay. Had you ever discussed taking on a minority 4 investor with Reed at this point? 5 A No. 6 Q Okay. You know that for sure? 7 A Right. 8 Q Okay. Had you ever discussed Reed selling the 9 company with Reed at this point? 10 A No. 11 Q You know that for sure? 12 A Yep. 13 Q Okay. How do you know that for sure? 14 A Because I didn't. 15 Q So you know the options that you're talking about 16 keeping open are not selling the company? 17 A Correct. 18 Q Okay. But you don't know what those options are? 19 A I don't recall what I'm referring to here. 20 Q Okay. 21 A Yeah, I had not discussed with Reed anything 22 related to minority investment that was indicating 23 his or responding to his desire to sell. That 24 was -- this is -- 25 Q I'm not asking about his desire to sell, I'm just</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 209	Page 211
<p>1 asking about what these options are. And I'm just 2 trying to confirm that you have no idea what the 3 options you're referring to are? 4 A I don't recall. Yeah. 5 Q Okay you have no way to know that? 6 A No. Yeah, I don't recall. 7 Q Okay. 8 (Exhibit No. 11 was marked for 9 identification.) 10 Q Okay. Do you recognize what's been marked as 11 Exhibit 11 as another operational update from you 12 to Reed dated April 10th, 2020, with a carbon copy 13 to Mr. Kiesler? 14 A I do. 15 Q Okay. So let's -- maybe let's work our way up 16 from the bottom. At the bottom it says Software 17 and Total Revenue. It says, "Revenue adjustments 18 have been made to software as we anticipate slower 19 growth as a result of current conditions." I'm 20 going to stop reading there. Or I'll just keep 21 going. Sorry. "Previously, our 2020 projections 22 hovered around 29.46 million, and after some 23 recent changes, the software projection is 24 28.29 million. This represents a 14.7 percent 25 software revenue growth over last year's software</p>	<p>1 revenue was growing. 2 Q Okay. 3 A Not at the desired growth rate. 4 Q Okay. Growing less fast than you would have 5 liked? 6 A Less desirable. 7 Q Okay. Okay. Paragraph above that one, it says 8 Sunsetting Content Production Services. And I'm 9 not going to read the whole thing, but if you want 10 to just take a look and read it to yourself, it -- 11 the last sentence says, "In total the severance 12 will cost about \$500,000." Sorry, it's two 13 sentences. "The longest standing service we had 14 provided the market will no longer be part of the 15 Widen product offering, the end of an era." Do 16 you see that? 17 A Yep. 18 Q Okay. What is this paragraph referring to? Is 19 this referring to what we talked about in the -- 20 sort of near the beginning of the deposition when 21 you said that at some point we sunsetted the -- I 22 think we were talking about premedia or 23 nonsoftware parts of the company? 24 A This is saying, yeah, and I also made a reference 25 to the work just stopped showing up. So customers</p>
Page 210	Page 212
<p>1 revenue of 24.66 million. Our total projected 2 revenue -- our total revenue is projected at 3 30.92 million or 7.8 percent better than last 4 year's total revenue of 28.69 million." Did I 5 read that correctly? 6 A You did. 7 Q Okay. So as of April 10, 2020, and this is during 8 COVID, right? Is that the current conditions 9 you're referring to? 10 A Absolutely. 11 Q Okay. So you're projecting a 14.7 percent revenue 12 software revenue growth over the year before? 13 A That's -- yeah. That's what this says, yeah. 14 Q And that software revenue you're projecting there 15 is 28.29 million? 16 A Software projected is 28.29. Yes. 17 Q Is the software revenue, what component of that is 18 annual recurring revenue? 19 A I don't recall the percentage. 20 Q So annual recurring revenue would be a subset of 21 total software revenue? 22 A Correct. 23 Q Okay. And -- okay. So fair to say the company 24 was growing at this point during COVID? 25 A Fair to say the company was -- the software</p>	<p>1 shopped sending work, and all of a sudden we are 2 in serious danger. And then we go through the 3 process of the PPP funding and then come to the 4 conclusion ultimately that this business is not 5 going to rebound and we're going to need to exit 6 because there's so much uncertainty in this 7 market, especially because customers just stopped 8 showing up, so. 9 Q So you decided to exit that market completely and 10 just be 100 percent a software company at this 11 point? 12 A We decided to exit this market, yes, because of 13 the circumstances that were in front of us here. 14 Yes. 15 Q Sure. And so then you would just be in software? 16 A And as a result of that, we would be in software 17 and services, and the services around the software 18 would include -- 19 Q Right. 20 A -- the things that we discussed before, 21 implementation and other related services. 22 Q Got it. Let's -- what were the PPP -- take me 23 through this PPP situation that the company dealt 24 with during this COVID period. What was that? 25 A Yeah. So if we step back, in March, early March,</p>

**Stacy L. Randall v.  
Reed C. Widen, et al.**

**Video Deposition of Matthew R. Gonnering**

Page 213	Page 215
<p>1 we formed a team to monitor COVID-related 2 activities, and it was to address what all of a 3 sudden was upon us, which is the whole thing needs 4 to change, the employment needs to change with 5 respect to where people are working, we need to 6 think about what customers are doing in this time, 7 we need to figure out how our revenue and expenses 8 need to change.</p> <p>9 And so we formed that team in early March, 10 and then we ended up sending employees home to 11 work from home. And then we looked at primarily 12 the risk to the business was something that we 13 used to differentiate in the market, which was to 14 play against the larger players who would demand 15 longer-term contracts, we said, you know what, 16 we're going to give every customer a 30-day out to 17 the agreement.</p> <p>18 And so we started to look at that in this 19 climate as we're adjusting expenses and planning 20 to adjust up to 6 million in expenses out of the 21 organization. We looked at anywhere from 100 to 22 200 different customers in a variety of impacted 23 markets like airline -- like airlines and 24 hospitality and food service. So we looked at all 25 that and we said there's a lot of revenue here</p>	<p>1 stage this in as in we're ready for the, all 2 right, up to 6 million in expense reductions, 3 which we acted on about three of that. We know of 4 customers who are in high-risk markets like 5 airlines and hospitality and food services and 6 travel and tourism. So we knew of the amount of 7 customer risk there.</p> <p>8 And the worst case, customers would act on 9 this, and we were going to have to position how 10 are we going to survive this if this starts to 11 roll through. And so we were -- we were ready for 12 that and to the degree what we could be to counter 13 that and to do the best that we could to survive.</p> <p>14 <b>Q So the PPP was kind of like you were -- you</b> 15 <b>applied for the loan because you were preparing</b> 16 <b>for sort of a worst case scenario that was a</b> 17 <b>potential under your agreements with your</b> 18 <b>customers?</b></p> <p>19 A PPP was in preparation -- it was for uncertainty.</p> <p>20 <b>Q Yeah.</b></p> <p>21 A And we applied for that because we saw nothing but 22 uncertainty.</p> <p>23 <b>Q Right.</b></p> <p>24 A That's all we were living and breathing at that 25 time, which was --</p>
Page 214	Page 216
<p>1 that we're earning from these customers, and we've 2 got this 30-day out clause that we've used as 3 differentiation for a long time that now looked 4 like it might be the death of us because we 5 thought, oh, my goodness, what is going to happen 6 if every customer gives a 30-day written notice 7 out of the agreement. Because we gave them that 8 ability.</p> <p>9 <b>Q They could just terminate on 30 days notice at any</b> 10 <b>point?</b></p> <p>11 A Correct. Yep. And that was a real scary thing 12 for us. And we -- yeah, it was a -- yeah. And we 13 thought, well, what are we going to do. How are 14 we going to do this. The PPP stuff started to 15 come into play here, which is to say, okay, well, 16 we don't really have -- there is no certainty.</p> <p>17 And so the PPP was a place where we could go 18 to say look, we -- there is clear uncertainty for 19 us, especially given the circumstances that we're 20 under. And we went through the PPP process. We 21 worked with Associated Bank to do that. Mike led 22 the way there, and we were able to secure a PPP 23 loan as part of that and to have the ability then 24 to say, all right, well, if this happens, if 25 something really bad happens, then hey, we would</p>	<p>1 <b>Q You were still growing at the time?</b></p> <p>2 A Projected.</p> <p>3 <b>Q Right.</b></p> <p>4 A We started to slice it, which is why we sliced it 5 by those markets. We said where are the high-risk 6 customers, where -- how are the new customers 7 going to show up or not show up, and what if they 8 exercise their 30-day out. So all those things 9 were swirling.</p> <p>10 <b>Q So you wanted to be ready, so you applied for PPP?</b></p> <p>11 A We had to be ready. Yeah. It was uncertain.</p> <p>12 <b>Q Right. Okay. We'll come back to this.</b></p> <p>13 MR. PALAY: Do you guys want to 14 take a break?</p> <p>15 MR. CHURCHILL: Sure.</p> <p>16 THE VIDEOGRAPHER: Stand by one 17 second. We're going off the record at 3:20 18 p.m. This is the end of media unit number 19 four.</p> <p>20 (A recess is taken from 3:20 p.m. to 3:43 p.m.)</p> <p>21 THE VIDEOGRAPHER: We're going back 22 on the record. The time is 3:43 p.m. This 23 is the beginning of media unit number five.</p> <p>24 BY MR. PALAY:</p> <p>25 <b>Q Welcome back, Mr. Gonnering. Okay. Before this</b></p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 217	Page 219
<p>1 break, we were talking about Widen Enterprises' 2 receipt of a PPP loan, and you were saying how -- 3 or I'm paraphrasing you, and correct me if I'm 4 wrong, but the loan was necessary so that the 5 company could be prepared for various negative 6 potentialities that might occur, one of which 7 we -- you highlighted was that your customers had 8 an ability to cancel their subscription on 30 days 9 notice? 10 A It was part of it. The potentiality, yes, and the 11 actual. There was the events that were going on 12 at that time, like the shutting off of work, and 13 so the PPP loan was for what was happening and for 14 the potentiality of all the other things. 15 Q Okay. Did your -- did the company's revenue 16 decrease because of COVID? 17 A I'd have to look. I don't know. 18 Q Okay. And how much PPP money did the company end 19 up getting? 20 A I recall that to be about 2.7 million. 21 Q Okay. And that was an important cash source for 22 the company at that time? 23 A It was important. 24 Q Okay. 25 A Due to the uncertainty.</p>	<p>1 Q Right. 2 A That was a shroud of uncertainty. There was -- 3 the messaging was very different. 4 Q Day-to-day. 5 A During the application process, then all the 6 sudden it shifted. Like -- 7 Q I was a lawyer during that time. I was as 8 uncertain as you. 9 A So it was -- yeah. That -- yeah. 10 Q So you didn't want to be -- like you didn't want 11 to trip a fault line and be in violation of some 12 later determined standard and get in trouble, 13 basically? 14 A Right. We wanted to follow the rules. 15 Q Right. You wanted to follow the rules? 16 A Yep. 17 Q Okay. 18 (Exhibit No. 12 was marked for 19 identification.) 20 Q Okay. So Exhibit 12 looks like a May 8th, 2020, 21 operational update from you to Reed carbon copying 22 Mr. Kiesler; is that accurate? 23 A That is. 24 Q Okay. And I guess the first thing I would direct 25 your attention to is a couple of paragraphs down,</p>
Page 218	Page 220
<p>1 Q Right. And something the company very much 2 needed? 3 A Yes. 4 Q Okay. Something you would not have wanted to 5 forego if at all avoidable? 6 A The PPP loan was important for us to continue 7 operations and to, yeah, to protect against the 8 potentialities that we talked about already. 9 Q Would you say the PPP loan was necessary for the 10 company? 11 A Yeah. Necessary for the uncertainty of the 12 company. 13 Q Okay. 14 A Yes. That's what the PPP loan was for, 15 uncertainty, and that is exactly what we lived. 16 Q Right. I was there. Not there, but I was around. 17 A Yep. 18 Q Okay. Did you ever consider returning the money 19 once the company had gotten it? 20 A I had posed a reference to what it would look like 21 to return that money. 22 Q Okay. Why did you go through that exercise? 23 A Well, there was a lot of -- not only was there 24 uncertainty in the market, there was also 25 uncertainty related to those PPP loans.</p>	<p>1 it says Software Revenue? 2 A Uh-huh. 3 Q And it says, "As of this date, currently projected 4 at 27.44 million, and we'll likely reduce it by a 5 few hundred thousand due to increased churn from 6 existing customers. Did I read that first 7 sentence correctly? 8 A Due to increased -- yep. 9 Q Okay. Increased churn means people cancelling 10 their subscriptions? 11 A Increased churn due to, yeah, customers leaving. 12 Q Okay. And you said, "We will adjust more 13 frequently given the circumstances pulling in 14 current data to estimate departures. Software 15 revenue growth in 2020 is about 10 percent better 16 when compared to 2019." Is that right? 17 A That is right. 18 Q Okay. So still growing compared to 2019, but not 19 as fast as you would like? 20 A In software. Yep. 21 Q In software. Okay. And then, you know, we talked 22 about before you had already made the decision to 23 shutter the content production aspect of the 24 business; right? 25 A I don't know if that decision was made at this</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 221	Page 223
<p>1 time, so --</p> <p>2 Q Okay. It said end of an era in April of 2020,</p> <p>3 but --</p> <p>4 A Okay.</p> <p>5 Q I don't know. So if you go above that one, on the</p> <p>6 PPP return, it says, "In the event we return the</p> <p>7 funds, we'll move up the content production</p> <p>8 departure to a date sooner than the September 1</p> <p>9 date. If we go this route, we would likely wait</p> <p>10 until the last day to see if anything else changes</p> <p>11 in our favor.</p> <p>12 One opportunity would trip our decision to</p> <p>13 give the money back without waiting, and that</p> <p>14 would be fulfilling the liquidity request of Stacy</p> <p>15 Randall. If we buy her shares, we would not keep</p> <p>16 the funds. Share buybacks and receiving federal</p> <p>17 funds don't mix well." Did I read that right?</p> <p>18 A You did.</p> <p>19 Q So why would buying Stacy's shares trip the</p> <p>20 decision to give the PPP money back without</p> <p>21 waiting to see if there was more favorable</p> <p>22 guidance?</p> <p>23 A This was a recommendation, and it was the optics</p> <p>24 of it. It was we're helping Stacy with her</p> <p>25 request, and just before this, we accepted</p>	<p>1 A Opportunity would trip our decision to give the</p> <p>2 money back. Yeah, I didn't. I saw it -- yeah, I</p> <p>3 saw it as a she's asking for help and that's</p> <p>4 coming through -- well, came through Reed and Reed</p> <p>5 wanted to help, so that's what I -- that's what I</p> <p>6 understood.</p> <p>7 Q Okay. But you called it an opportunity.</p> <p>8 A Here, I referred to one opportunity would trip our</p> <p>9 decision to give the money back without waiting,</p> <p>10 and that would be fulfilling the liquidity request</p> <p>11 of Stacy Reynolds. So she requested that</p> <p>12 liquidity.</p> <p>13 Q Okay. And how do you know she requested --</p> <p>14 A And there would be an opportunity to help her.</p> <p>15 And I know that through -- it would have been</p> <p>16 through dialogue with Reed.</p> <p>17 Q So the opportunity was helping Stacy?</p> <p>18 A One opportunity --</p> <p>19 Q It wasn't an opportunity for the company or your</p> <p>20 benefit, it was for Stacy's benefit?</p> <p>21 A Let me make sure that -- one opportunity to -- one</p> <p>22 opportunity would trip our decision to give the</p> <p>23 money back without waiting, and that would be</p> <p>24 fulfilling the liquidity request of Stacy Randall.</p> <p>25 Yeah. An opportunity to help.</p>
Page 222	Page 224
<p>1 2.7 million and were going to use that</p> <p>2 \$2.7 million in PPP money for the intended</p> <p>3 purpose. And then in May, we talk about, all</p> <p>4 right, are we going to help Stacy? Okay, well,</p> <p>5 then we commit to 1.-whatever million, and I</p> <p>6 didn't like the optics of that, that we were going</p> <p>7 to use the PPP for its intended purpose, and then</p> <p>8 we were also going to commit to 1.-whatever and</p> <p>9 helping Stacy. So it was an optics thing, which</p> <p>10 is why I would -- which is why I was making that</p> <p>11 recommendation.</p> <p>12 Q Okay. So let's take it all one step at a time.</p> <p>13 So you talk about helping Stacy, but buying</p> <p>14 Stacy's shares was something you had been wanting</p> <p>15 to do for a while at this point; right?</p> <p>16 A Offering to buy back shares was something that I</p> <p>17 had recommended. Yes.</p> <p>18 Q Okay. And is that why you called this an</p> <p>19 opportunity, referring to buying back Stacy's</p> <p>20 shares?</p> <p>21 A Wanted an opportunity to -- opportunity to trip</p> <p>22 our decision to give the money back. Yeah, I</p> <p>23 didn't think of it as a -- yeah. I see the</p> <p>24 reading of the word opportunity.</p> <p>25 Q You didn't think of it as an opportunity?</p>	<p>1 Q Okay. Where does it say help?</p> <p>2 A It doesn't.</p> <p>3 Q Okay. But that's what you meant? You didn't see</p> <p>4 this as an opportunity to do the thing that you</p> <p>5 say you had wanted to do, it was an opportunity to</p> <p>6 help Stacy?</p> <p>7 A Right.</p> <p>8 Q And that was something you looked for,</p> <p>9 opportunities to help Stacy?</p> <p>10 A The opportunity to help Stacy was something that</p> <p>11 came through from Reed and Mike when I was -- when</p> <p>12 I learned of this. That's what I understood Reed</p> <p>13 wanting to do here.</p> <p>14 Q Okay. And you talked to Reed about his desire to</p> <p>15 help Stacy?</p> <p>16 A Something like that. Yes.</p> <p>17 Q Well, what do you mean? What's something like</p> <p>18 that?</p> <p>19 A I don't recall the conversation, but I do remember</p> <p>20 that that was what was expressed.</p> <p>21 Q Okay. Did Reed tell you that he would only agree</p> <p>22 to buy all of Stacy's shares instead of a portion</p> <p>23 of them?</p> <p>24 A I don't recall that.</p> <p>25 Q Okay. Did Mike Kiesler ever tell you that Reed</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

<p style="text-align: right;">Page 225</p> <p>1 told him that?</p> <p>2 A I don't recall that.</p> <p>3 Q Okay. Did Reed ever -- did you and Reed look into</p> <p>4 other opportunities to help Stacy?</p> <p>5 A I -- I didn't.</p> <p>6 Q Okay. You never looked into another opportunity</p> <p>7 to help Stacy?</p> <p>8 A No. That would have -- no, I didn't.</p> <p>9 Q Did you think about other opportunities to help</p> <p>10 Stacy in this situation, like other ways to get</p> <p>11 her money besides buying her shares?</p> <p>12 A I didn't. This would have been -- yeah, Reed</p> <p>13 would be the decision maker here. So I didn't</p> <p>14 look for other opportunities.</p> <p>15 Q Okay.</p> <p>16 A My focus at this time was business sustainability.</p> <p>17 My focus was this is -- this is height of COVID.</p> <p>18 This is I've got all customers that could submit</p> <p>19 30-day written notice out of all agreements, and</p> <p>20 I've got expense reductions, and all these -- so</p> <p>21 my entire focus and time is spent working through</p> <p>22 that, and the opportunity to help came up through</p> <p>23 Reed.</p> <p>24 Q Well, that's what part -- so that's what I don't</p> <p>25 understand. You said your whole focus was on</p>	<p style="text-align: right;">Page 227</p> <p>1 MR. CHURCHILL: Objection.</p> <p>2 Mischaracterizes testimony.</p> <p>3 A Can you repeat the question?</p> <p>4 (Record was read back as requested.)</p> <p>5 A Optics. The perception of that, which is we</p> <p>6 expressed the uncertainty with PPP, we used it in</p> <p>7 accordance with that agreement, rightfully so, and</p> <p>8 then we committed to this liquidity request. And</p> <p>9 I didn't like the --</p> <p>10 Q Yeah.</p> <p>11 A From a business perspective, it was the -- it was</p> <p>12 the possible negative optics to that, which were</p> <p>13 also very dominant in this time period.</p> <p>14 Organizations were being shamed for --</p> <p>15 Q Oh, I hear you.</p> <p>16 A -- these activities.</p> <p>17 Q I was advising people the same way. I understand</p> <p>18 why you wouldn't want to take \$2.7 million and</p> <p>19 then buy an owner's stock with it. That's not my</p> <p>20 question, though. My question is what did the</p> <p>21 company get from helping Stacy that made it worth</p> <p>22 foregoing the \$2.7 million that you said was</p> <p>23 necessary?</p> <p>24 A What the company got was avoidance of negative PR.</p> <p>25 Q Right. But why not just not buy Stacy's stock and</p>
<p style="text-align: right;">Page 226</p> <p>1 helping the company?</p> <p>2 A Uh-huh.</p> <p>3 Q And the PPP money was important to the company?</p> <p>4 A Yeah.</p> <p>5 Q You needed it, it was necessary, you said?</p> <p>6 A Correct.</p> <p>7 Q But you would give it all back for the opportunity</p> <p>8 to help Stacy by buying her shares for</p> <p>9 1.-something million dollars. So you'd lose the</p> <p>10 2.7, the 1.-whatever would be out the door, and it</p> <p>11 would all be worth it because why?</p> <p>12 A I recommended giving it back in the event we</p> <p>13 fulfill Stacy's --</p> <p>14 Q Well, you said it would trip the opportunity?</p> <p>15 A Yeah.</p> <p>16 Q Or, excuse me, would trip the decision to give the</p> <p>17 shares back.</p> <p>18 A That's what I -- that would my representation.</p> <p>19 Ultimate decision maker is Reed. So my</p> <p>20 recommendation was that because I didn't like the</p> <p>21 optics of it.</p> <p>22 Q Got it. But why would the opportunity to help</p> <p>23 Stacy by buying all of her shares be worth</p> <p>24 returning the \$2.7 million from the company's</p> <p>25 perspective?</p>	<p style="text-align: right;">Page 228</p> <p>1 keep the 2.7 that you said was necessary?</p> <p>2 A That would have been fine if Stacy didn't want</p> <p>3 that.</p> <p>4 Q But Stacy couldn't force you to buy her stock,</p> <p>5 right?</p> <p>6 A I understood this to be Reed wanted to help Stacy,</p> <p>7 and that was -- we -- Reed wants to do that, then</p> <p>8 that's what we're going to do.</p> <p>9 Q Okay. So this was all about helping Stacy?</p> <p>10 A From my perspective, the opportunity to help and</p> <p>11 the way Reed expressed it.</p> <p>12 Q Okay. So you wanted to help Stacy as much as you</p> <p>13 possibly could?</p> <p>14 A I was focused on the business, and the business,</p> <p>15 at the direction of Reed, and directs accordingly,</p> <p>16 do you want to help Stacy, so be it, then we'll do</p> <p>17 what needs to be done or what you want to do.</p> <p>18 Q Well, so I'm not understanding. Whose opportunity</p> <p>19 was helping Stacy? You said you're focused on the</p> <p>20 business, but you're also focused on helping</p> <p>21 Stacy, and those two things seem to go against</p> <p>22 each other because helping the business means</p> <p>23 keeping the necessary \$2.7 million and, you know,</p> <p>24 helping Stacy means not keeping that money. So</p> <p>25 which were you more focused on, helping the</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 229	Page 231
<p>1 business or helping Stacy?</p> <p>2 A I was focused on helping the business and</p> <p>3 fulfilling Reed's request to help Stacy and doing</p> <p>4 whatever we could to do that.</p> <p>5 Q Okay. Did you ever advise Reed to go ahead and</p> <p>6 fulfill Stacy's request?</p> <p>7 A I did not.</p> <p>8 Q Okay. Did you ever advise him not to?</p> <p>9 A I wasn't involved with it.</p> <p>10 Q Okay. You've never made a recommendation one way</p> <p>11 or the other --</p> <p>12 A No.</p> <p>13 Q -- about pursuing this?</p> <p>14 A No.</p> <p>15 Q Okay. And all the information you learned about</p> <p>16 Stacy's request, is that fair to say it was from</p> <p>17 Reed?</p> <p>18 A I would say it was from Reed and possibly from</p> <p>19 Mike.</p> <p>20 Q Okay. So this is May 8th. You had talked to Reed</p> <p>21 and maybe Mike about Stacy's request.</p> <p>22 A Reed or Mike would have made a reference to it.</p> <p>23 Yes.</p> <p>24 Q Okay. What did they tell you about?</p> <p>25 A Well, what I recall is Reed's reference to helping</p>	<p>1 A I understood it as a shareholder myself that there</p> <p>2 was a preset agreed upon weighted EBITDA formula</p> <p>3 that would determine that price.</p> <p>4 Q Okay.</p> <p>5 A And it was my understanding that that was</p> <p>6 universal across all shareholders.</p> <p>7 Q Okay. And you said you had reviewed the</p> <p>8 shareholder agreement yourself at this point?</p> <p>9 A My signed agreement, yes.</p> <p>10 Q Okay. So you had a copy?</p> <p>11 A I had a -- I have a copy. Yes.</p> <p>12 Q Okay. And did you review it in connection with</p> <p>13 the events we're talking about here at all in May</p> <p>14 of 2020?</p> <p>15 A I did not go back and review my shareholder</p> <p>16 agreement during this time.</p> <p>17 Q Okay. Did you talk to Mike Kiesler, Reed, or the</p> <p>18 company's lawyers about what that shareholder</p> <p>19 agreement said?</p> <p>20 A No.</p> <p>21 Q During this time?</p> <p>22 A No.</p> <p>23 Q Before?</p> <p>24 A No.</p> <p>25 Q Okay. And you -- I'm a little unclear. Your</p>
Page 230	Page 232
<p>1 his sister. So that would have been a Reed -- a</p> <p>2 Reed statement. But I don't know if I had talked</p> <p>3 to Mike about it. It's possible that Mike would</p> <p>4 have made also a reference to it, but I don't</p> <p>5 recall what that reference would have been.</p> <p>6 Q Okay. You didn't see this as an opportunity from</p> <p>7 the company's perspective to buy out one of the</p> <p>8 passive shareholders that you had wanted to buy</p> <p>9 out?</p> <p>10 A Correct.</p> <p>11 Q Okay. Do you remember the first time you learned</p> <p>12 about Stacy's request as you've described it?</p> <p>13 A I don't recall the time.</p> <p>14 Q Okay. But it was by May 8th?</p> <p>15 A Yes.</p> <p>16 Q Okay. And did you understand that this request,</p> <p>17 you referenced 1.-something million dollars, did</p> <p>18 you understand that that price would be arrived at</p> <p>19 using the EBITDA formula from the company's</p> <p>20 shareholder agreement?</p> <p>21 A I understood that formula to be used for all the</p> <p>22 shareholder transactions. Yes.</p> <p>23 Q Okay. So you did not believe that Stacy's request</p> <p>24 would be fulfilled at a negotiated price, it would</p> <p>25 be fulfilled using a preordained price?</p>	<p>1 understanding at this time was that the EBITDA</p> <p>2 formula was required or mandated by the</p> <p>3 shareholder agreement for a transaction like the</p> <p>4 buyback of Stacy's shares?</p> <p>5 A My understanding was that if I wanted to sell --</p> <p>6 Q Well, let's talk about Stacy's.</p> <p>7 A Well, I don't know about Stacy's. I know about</p> <p>8 mine. So I -- and I know that to be then I would</p> <p>9 apply that to others, as in my interpretation of</p> <p>10 that agreement that I had was that I have a</p> <p>11 weighted EBITDA formula that is used to buy and</p> <p>12 also then used to sell if I were to express my</p> <p>13 desire to sell. That was my understanding.</p> <p>14 Q Okay. Fair to say then that your view is that the</p> <p>15 formula was required to be used?</p> <p>16 A I didn't do this, but I would have -- I would have</p> <p>17 sought other advice to ensure that. But my</p> <p>18 general understanding was that formula was the</p> <p>19 formula.</p> <p>20 Q I know it was the formula, but was it required?</p> <p>21 A I don't know that.</p> <p>22 Q Okay. And you didn't know that at the time or</p> <p>23 not?</p> <p>24 A No.</p> <p>25 Q Okay. Did you think about that?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 233	Page 235
<p>1 A No.</p> <p>2 Q Okay. What part of the agreement gave you the impression that it had to be used, the formula?</p> <p>3</p> <p>4 A I just remembered the formula being present as part of my agreement, and that therefore that would be used.</p> <p>5</p> <p>6</p> <p>7 Q Would your decision to want to help Stacy by buying her shares have been impacted if the formula didn't apply and you had to buy the shares at the fair market value of those shares?</p> <p>8</p> <p>9</p> <p>10</p> <p>11 A Well, this was -- so this is -- one, this is Reed's decision, so -- and also, Stacy agreeing to it. And so I'd like to ask the question be repeated because I got distracted by those.</p> <p>12</p> <p>13</p> <p>14 (Record was read back as requested.)</p> <p>15</p> <p>16 A That have been impacted. Reed's call on this one. But we -- as the business, we didn't go out and get -- we didn't go out and value those shares for those transactions. So I don't know what that would have been. And would that decision have changed? I suppose that depends.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Q Depends on what?</p> <p>23 A On what that amount would have been.</p> <p>24 Q So if the amount that the fair market value of the shares had been higher than the EBITDA formula,</p> <p>25</p>	<p>1 A I guess it's an opportunity to help and Reed wants to help, and therefore we're going to help.</p> <p>2</p> <p>3 Q Okay. Did you believe that the EBITDA formula at this time was an accurate gauge of the company's fair market value? You referenced that the company didn't get an appraisal or anything to determine that. Did you think that the EBITDA formula was, like, more or less equal to the fair market value?</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10 A I didn't think about the EBITDA formula relative to fair market value. I thought about the EBITDA formula as the formula that the shareholders agreed to, and that was it.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Q Okay. And so the only way that can make sense to me is if the formula was required to be used. Do you see why that would be?</p> <p>15</p> <p>16</p> <p>17 A Say it again.</p> <p>18 Q The only way it can make sense to me that it doesn't matter if the EBITDA formula and the fair market value are or are not the same is if the EBITDA formula has to be used, you know, then we're stuck with it; right? Does that -- do you see why I'm saying that?</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 A No. I don't understand. So --</p> <p>25 Q So if there's a formula in the agreement that</p>
Page 234	Page 236
<p>1 would you maybe not have wanted to take the opportunity to help Stacy by buying out her shares if the company had to spend more money?</p> <p>2</p> <p>3</p> <p>4 A Yeah, I don't know.</p> <p>5 Q Okay. And this was the same EBITDA formula that you told me was low a couple months before; right?</p> <p>6</p> <p>7 A Relative to projections, yes.</p> <p>8 Q Okay. You still thought it was low when you wanted to help Stacy by using it?</p> <p>9</p> <p>10 A I wasn't thinking about low or high in this case. I was thinking about we got trouble, so.</p> <p>11</p> <p>12 Q Okay. Just wanted to help Stacy?</p> <p>13 A Reed wants to help Stacy. Yes.</p> <p>14 Q Okay. So you didn't want to help Stacy, Reed wanted to help Stacy?</p> <p>15</p> <p>16 A I wanted to help Stacy because Reed wants to help Stacy. So what Reed wants, then we'll figure that out.</p> <p>17</p> <p>18</p> <p>19 Q Okay. So you're saying -- you're calling it an opportunity to help from Reed's perspective, and because from it's from Reed's perspective, it's from your perspective because whatever Reed wants, you want to help him get?</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 MR. CHURCHILL: Objection.</p> <p>25 Mischaracterizes testimony.</p>	<p>1 comes out to \$1.3 million, and I think that's about what Stacy got for her shares, but you don't have to use it, and that amount is less than the fair market value of those shares, that to me would matter unless the formula was required to be used. Do you see why I'm saying that?</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 MR. CHURCHILL: Objection. Calls for a legal conclusion.</p> <p>8</p> <p>9 A Yeah, I -- I would have to review my own shareholder agreement to see, like, what does that say. I don't know --</p> <p>10</p> <p>11</p> <p>12 Q I'm just talking about hypothetical or pretend or whatever. Like, can you see why if the formula didn't equate to fair market value and didn't need to be used, that that might matter that they're not the same?</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 A That it might matter that they're not the same.</p> <p>18 Q The EBITDA formula value and the fair market value.</p> <p>19</p> <p>20</p> <p>21 MR. CHURCHILL: Same objection. Also object on the grounds of confusing.</p> <p>22</p> <p>23 A I'm not sure how to answer.</p> <p>24 Q Okay. So why did it not matter to you that the EBITDA formula value of Stacy's shares, 1.3 million, and the fair market value may or may</p> <p>25</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 237	Page 239
<p>1 not have been the same?</p> <p>2 A Why would it matter that they may or may not have</p> <p>3 been the same?</p> <p>4 Q Why did it not matter to you?</p> <p>5 A Why did it not matter that they were the same.</p> <p>6 The shareholder -- well, it only mattered that the</p> <p>7 shareholder agreement that I was aware of because</p> <p>8 I agreed to the same thing is -- was a -- was</p> <p>9 expressing the EBITDA formula, and that was the</p> <p>10 formula that we were to follow. It wasn't --</p> <p>11 there wasn't a -- there wasn't another formula.</p> <p>12 That was it. So we didn't know any other formula.</p> <p>13 Q Right. So what would happen if there was no</p> <p>14 formula? What would you have done?</p> <p>15 MR. CHURCHILL: Objection. Calls</p> <p>16 for speculation.</p> <p>17 A I don't know.</p> <p>18 Q I mean, you would pay someone what the shares are</p> <p>19 worth; right?</p> <p>20 A If there was no formula, I don't -- there was a</p> <p>21 formula.</p> <p>22 Q Agreed. But let's pretend. You did do some</p> <p>23 pretending earlier today, and you did some</p> <p>24 pretending in your emails, so pretend with me.</p> <p>25 Pretend there's no formula.</p>	<p>1 Q Okay. My question, anything about that seem not</p> <p>2 reasonable to you?</p> <p>3 A Anything about that seem not reasonable to me.</p> <p>4 Q Paying someone fair market value for their shares.</p> <p>5 MR. CHURCHILL: Objection. Vague.</p> <p>6 A What is -- who defines fair market value?</p> <p>7 Q We can all fight about that later. Whatever that</p> <p>8 amount is, seem reasonable that that's the amount</p> <p>9 someone should get paid if there's not a formula</p> <p>10 saying they have to get paid a different amount?</p> <p>11 MR. CHURCHILL: Objection. Vague</p> <p>12 as to time frame.</p> <p>13 A Yeah, if there's no -- again, if there's no</p> <p>14 formula, I would seek advice. I don't know.</p> <p>15 Q Is there an amount you'd pay someone other than</p> <p>16 the fair market value for their property, you</p> <p>17 know, in the absence of an agreement to the</p> <p>18 contrary?</p> <p>19 MR. CHURCHILL: Same objections.</p> <p>20 A I don't know.</p> <p>21 Q Okay. Did you affirmatively believe that the</p> <p>22 EBITDA formula approximated or equalled the share</p> <p>23 fair market value, or did you just think it didn't</p> <p>24 matter?</p> <p>25 A I think it -- the EBITDA formula that I agreed to</p>
Page 238	Page 240
<p>1 A Okay.</p> <p>2 Q How would you figure out how much to pay Stacy for</p> <p>3 her shares?</p> <p>4 MR. CHURCHILL: Objection. Calls</p> <p>5 for expert testimony.</p> <p>6 A I would seek advice from counsel.</p> <p>7 Q From a lawyer?</p> <p>8 A Yeah.</p> <p>9 Q Okay. Would it seem reasonable to just pay what</p> <p>10 the shares are worth, whatever that amount is?</p> <p>11 MR. CHURCHILL: Objection.</p> <p>12 Ambiguous.</p> <p>13 A The shares are worth what the formula says they're</p> <p>14 worth.</p> <p>15 Q No, no, no. We're pretending no formula.</p> <p>16 A So restate your question.</p> <p>17 Q If there's no formula.</p> <p>18 A Yeah.</p> <p>19 Q Would it seem reasonable to just pay a shareholder</p> <p>20 being redeemed like Stacy the fair market value of</p> <p>21 the shares?</p> <p>22 A I don't know.</p> <p>23 Q Anything about that seem not reasonable?</p> <p>24 A If I put myself in those shoes and if I'm in that</p> <p>25 case, I would again go to seek legal advice.</p>	<p>1 was how we all agreed to buy and sell shares, so.</p> <p>2 Q So is that the second one, it didn't matter</p> <p>3 whether it equalled the fair market value?</p> <p>4 A It didn't -- did it matter if it equalled -- it</p> <p>5 was -- what mattered in those case was it was the</p> <p>6 agreement. I agreed to that, and therefore that's</p> <p>7 what I'm -- that's what I'm going to follow.</p> <p>8 Q Okay. So it didn't matter whether it was the fair</p> <p>9 market value or not because in your view, that's</p> <p>10 what the agreement said?</p> <p>11 A That was the agreement.</p> <p>12 Q Okay.</p> <p>13 A The agreement I made with the company would have</p> <p>14 been this, and I would -- as I previously spoke</p> <p>15 to, if I'm wanting to do that, I would get my</p> <p>16 agreement and I would seek advice, and then I</p> <p>17 would -- then I would act on that advice or not</p> <p>18 act on it.</p> <p>19 Q Okay. So -- and you said you'd seek advice from a</p> <p>20 lawyer, you said?</p> <p>21 A That's -- I imagine that's what it would look</p> <p>22 like. I didn't do that. I didn't go through that</p> <p>23 process.</p> <p>24 Q Sure. You as the CEO of the company would not</p> <p>25 know how to value this stock in the absence of a</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 241	Page 243
<p>1 formula without advice from a lawyer?</p> <p>2 A There was a formula, so that was the agreed</p> <p>3 upon --</p> <p>4 Q Well, we've already established that you know how</p> <p>5 to pretend, so let's say there's not a formula</p> <p>6 because I'll just tell you, I don't agree that</p> <p>7 there's a formula. So we just have a disagreement</p> <p>8 there, so we're going to -- pretend no formula</p> <p>9 with me. Okay? You with me? Okay. We're</p> <p>10 pretending no formula. You as the CEO would not</p> <p>11 know how to value your shares if you were in</p> <p>12 Stacy's position without getting advice from a</p> <p>13 lawyer?</p> <p>14 A That's what I would do. I would go get advice.</p> <p>15 Q Okay. You think because that's important?</p> <p>16 A To get advice?</p> <p>17 Q Yeah.</p> <p>18 A Yes.</p> <p>19 Q To figure out how much you should sell your stock</p> <p>20 for?</p> <p>21 A To get advice on, yeah, that matter and anything</p> <p>22 else that might be relevant.</p> <p>23 Q Did you feel like the company had any obligation</p> <p>24 or I should say anyone, the company, Reed, Mike</p> <p>25 Kiesler, did you feel that any of them had any</p>	<p>1 the company, Reed or Mike Kiesler, did have an</p> <p>2 obligation to provide Stacy with information</p> <p>3 relevant to the value of her shares, even though</p> <p>4 Stacy didn't ask for that information, that you</p> <p>5 would have advised the company, Mike Kiesler, or</p> <p>6 Reed to provide that information?</p> <p>7 A If there was some obligation that was expressed</p> <p>8 that information needed to be provided, there --</p> <p>9 it would have been provided, so.</p> <p>10 Q Okay. Did Reed ever tell you that Stacy only</p> <p>11 wanted to sell \$100,000 worth of her shares?</p> <p>12 A No.</p> <p>13 Q Would that have impacted any of your advice to</p> <p>14 Reed about whether to pursue the opportunity of</p> <p>15 buying all of Stacy's shares?</p> <p>16 A I don't know.</p> <p>17 Q Okay.</p> <p>18 (Exhibit No. 13 was marked for</p> <p>19 identification.)</p> <p>20 Q So before we get into this, did you talk to Mike</p> <p>21 Kiesler or Reed after May 8th and before the</p> <p>22 buyback of Stacy's shares were completed about the</p> <p>23 status of the transaction at all?</p> <p>24 A I would have inquired with Mike at one point in</p> <p>25 time about the status of that, because I was aware</p>
Page 242	Page 244
<p>1 obligation to give Stacy information about the</p> <p>2 value of her shares, or that was relevant to the</p> <p>3 value her shares?</p> <p>4 MR. CHURCHILL: Objection.</p> <p>5 Compound.</p> <p>6 A Parse it for me.</p> <p>7 Q Did you think that Reed, Mike Kiesler, or Windy</p> <p>8 Waters had any obligation to provide Stacy</p> <p>9 information that would be relevant to the value</p> <p>10 and the fair market value of her shares when</p> <p>11 buying those shares?</p> <p>12 A I think if Stacy would have requested information,</p> <p>13 that it would have been delivered to her.</p> <p>14 Q Okay. But you didn't think there was any</p> <p>15 obligation to provide that information without her</p> <p>16 requesting it?</p> <p>17 A I don't know what those obligations would be.</p> <p>18 Q Okay. You didn't believe -- fair to say if you</p> <p>19 believed there had been an obligation to provide</p> <p>20 Stacy information, even though she didn't request</p> <p>21 it, you would have done that?</p> <p>22 A If Stacy would have asked me for something, yeah,</p> <p>23 I would have provided that to her.</p> <p>24 Q Wasn't -- wasn't quite the question. So my</p> <p>25 question is fair to say that if you believed that</p>	<p>1 of it.</p> <p>2 Q Okay. And why do you care?</p> <p>3 A To see how he was spending his time.</p> <p>4 Q Okay. It was just a matter of time management?</p> <p>5 A What is he -- yeah, what is he working on. Is he</p> <p>6 working on this.</p> <p>7 Q Did you want the company to buy Stacy's shares?</p> <p>8 A That didn't matter to me.</p> <p>9 Q You didn't care either way?</p> <p>10 A No.</p> <p>11 Q Okay. So this is a May 14th, 2020, looks like</p> <p>12 Slack message between you and Mike Kiesler again?</p> <p>13 A Yep.</p> <p>14 Q And Mike says to you, "On a different front, Windy</p> <p>15 Waters, Inc., has purchased all Randall shares.</p> <p>16 Mission accomplished. 16K a month, 84 months, at</p> <p>17 .58 percent." You said, "Excellent. Thank you</p> <p>18 for making it happen." Do you see that? I read</p> <p>19 that right?</p> <p>20 A Yes, you did.</p> <p>21 Q Okay. So, well, let's start with if you didn't</p> <p>22 care about the company buying her -- Stacy's</p> <p>23 shares, why did you say it was excellent that they</p> <p>24 did?</p> <p>25 A Excellent, thanks for helping Stacy. It's good.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 245	Page 247
<p>1 Q Okay.</p> <p>2 A Fulfilling what Reed wanted to do.</p> <p>3 Q Okay. So this -- you just thought it was</p> <p>4 excellent because it helped Stacy?</p> <p>5 A Because it fulfilled what Reed wanted to do here,</p> <p>6 which was helping Stacy. Yes.</p> <p>7 Q And you're aware that this whole case is about</p> <p>8 Stacy saying it didn't help her; right?</p> <p>9 A I'm not.</p> <p>10 Q Well, you said in the beginning that your</p> <p>11 understanding of the case is that Stacy felt she</p> <p>12 wasn't treated fairly?</p> <p>13 A Yep.</p> <p>14 Q Okay. So, you know, if the whole point was</p> <p>15 helping Stacy, does it matter if Stacy felt like</p> <p>16 this was helping her?</p> <p>17 A Well, Stacy asked for this, which is --</p> <p>18 Q Well, let's leave that aside because I don't know</p> <p>19 that we agree about that. I mean, you said you</p> <p>20 never talked to Kiesler or Reed about whether</p> <p>21 Stacy -- what exactly Stacy asked for; right?</p> <p>22 A Correct.</p> <p>23 Q Okay. So you don't know what Stacy asked for?</p> <p>24 A But I do know she asked.</p> <p>25 Q You knew she asked something, but you don't know</p>	<p>1 him that buying Stacy's shares was about helping</p> <p>2 Stacy or not?</p> <p>3 A I don't.</p> <p>4 Q Okay. Do you think Stacy had the information that</p> <p>5 she would have needed to evaluate or ask someone</p> <p>6 to evaluate the fair market value of her shares or</p> <p>7 of the company when she sold her shares in</p> <p>8 May 2020?</p> <p>9 MR. CHURCHILL: Objection. Lack of</p> <p>10 foundation. Calls for speculation.</p> <p>11 A I don't know what information she had.</p> <p>12 Q Okay. What information would you have wanted if</p> <p>13 you were going to figure out the fair market value</p> <p>14 of the company in May 2020?</p> <p>15 A What information would I want if I was selling my</p> <p>16 shares?</p> <p>17 Q Well, just if you were -- if you wanted to know</p> <p>18 the fair market value of Widen Enterprises in</p> <p>19 May 2020.</p> <p>20 A As a shareholder, as a -- if I put myself in that</p> <p>21 position and I want to sell my shares, what I</p> <p>22 would ask for is the financial statements.</p> <p>23 Q What in them would you think is important?</p> <p>24 A All of it.</p> <p>25 Q Hard to know the value of the company without</p>
Page 246	Page 248
<p>1 what she asked for; right?</p> <p>2 A Correct.</p> <p>3 Q Okay. So where does Mike Kiesler reference</p> <p>4 helping Stacy in this text?</p> <p>5 A He doesn't say the word help.</p> <p>6 Q No, he just talks about Windy Waters buying all</p> <p>7 Randall shares and he calls that mission</p> <p>8 accomplished. Doesn't talk about helping Stacy.</p> <p>9 But you're saying that this is all -- your</p> <p>10 statement that this is excellent, and your</p> <p>11 thanking Mike is all because it helped Stacy?</p> <p>12 A Because it delivered on what Reed wanted to do,</p> <p>13 which was help his sister.</p> <p>14 Q Okay. How do you know that's what Reed wanted to</p> <p>15 do?</p> <p>16 A Because he had expressed it at some point.</p> <p>17 Q And you don't know when?</p> <p>18 A I don't know when.</p> <p>19 Q Okay. What else did he say when he expressed that</p> <p>20 he wanted to help his sister?</p> <p>21 A I don't recall.</p> <p>22 Q Okay. Are you aware that Mike Kiesler was deposed</p> <p>23 in this case too?</p> <p>24 A I am.</p> <p>25 Q Okay. Do you know if he testified that Reed told</p>	<p>1 seeing its financial statements?</p> <p>2 MR. CHURCHILL: Objection.</p> <p>3 Misleading.</p> <p>4 A What do you mean?</p> <p>5 Q I mean could you -- would it have been difficult</p> <p>6 to figure out the value of the company without</p> <p>7 seeing its financial statements?</p> <p>8 MR. CHURCHILL: Objection.</p> <p>9 Ambiguous.</p> <p>10 A I would have -- I would have referenced the</p> <p>11 formula that I agreed to as the -- that's what I</p> <p>12 agreed to. That was the -- that's what would have</p> <p>13 determined the --</p> <p>14 Q Wait. So my question is how you would have</p> <p>15 determined the fair market value. Do you</p> <p>16 understand that?</p> <p>17 A Now I'm putting that piece together. Yes.</p> <p>18 Q Okay. And you're saying you would have looked at</p> <p>19 the formula to figure out the fair market value?</p> <p>20 A Well, no. If I were to sell my shares, I would --</p> <p>21 Q No, no. Forget selling your shares. Just if you</p> <p>22 as Matt Gonnering, CEO of the company, wanted to</p> <p>23 know the fair market value of this company in</p> <p>24 May 2020, what information would you have needed</p> <p>25 to see?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 249	Page 251
<p>1 A So as the CEO of the company, if I was trying to 2 determine fair market value, we didn't know fair 3 market value at that time, but I would -- I 4 would -- you would have to take the company to 5 some kind of valuation expert. I would seek 6 expert advice.</p> <p>7 Q Okay. Would looking at the EBITDA formula in the 8 shareholder agreement have told you anything about 9 the fair market value of the company?</p> <p>10 MR. CHURCHILL: Objection. Calls 11 for expert testimony.</p> <p>12 A Yeah, again, as the -- so two different roles 13 here. The first role was if I'm a shareholder and 14 wanting to know, I would ask for financial 15 statements. The second, as the CEO, I would seek 16 expert advice. I would --</p> <p>17 Q Okay. In neither of those situations would you 18 just like at the EBITDA formula and say that's all 19 I need to know?</p> <p>20 MR. CHURCHILL: Objection. Calls 21 for expert testimony.</p> <p>22 A I don't know.</p> <p>23 Q Well, that isn't what you told me you would do in 24 either of those situations; correct?</p> <p>25 A For selling the shares, there was an agreed upon</p>	<p>1 A I would have told Reed I don't know what the fair 2 market value of Widen Enterprises is.</p> <p>3 Q Okay. So you would not have told him \$6.8 million 4 was an accurate estimate if you didn't know what 5 the fair market value was; right?</p> <p>6 A Correct. I would have told him I don't know.</p> <p>7 Q Okay. In the context of Stacy's buyout, did you 8 do anything to figure out the fair market value of 9 either the company or her shares?</p> <p>10 A I wasn't a part of that, so I don't know.</p> <p>11 Q Do you know if anyone did anything to try to 12 figure out the fair market value of the company or 13 her shares?</p> <p>14 A I don't know.</p> <p>15 Q Okay. Would you have thought -- would you have 16 known that as the CEO of the company, do you 17 think?</p> <p>18 A I don't -- I don't know. That would be -- that 19 would be something Reed would have directed or 20 done.</p> <p>21 Q Okay. And you never heard about it?</p> <p>22 A Nope.</p> <p>23 Q Okay. Do you know anything about what Stacy's 24 financial situation was at -- during this time?</p> <p>25 A No.</p>
Page 250	Page 252
<p>1 shareholder agreement that I also agreed to, that 2 all the shareholders agreed to, so that's that.</p> <p>3 Now, the fair market value determination 4 would require expertise. So as the CEO, if I'm 5 going to provide a market valuation of the 6 company, then I would have to use and pay for 7 services from another company who would have 8 expert advice on that front.</p> <p>9 Q Okay. Did you ever ask -- did you ever tell Reed 10 or anyone else that you thought the company was 11 worth a certain amount because the EBITDA formula 12 said so?</p> <p>13 A I don't recall.</p> <p>14 Q Would you have done that?</p> <p>15 A Would I have said to Reed or anyone else that the 16 EBITDA formula was what?</p> <p>17 Q Okay. So just take from me the EBITDA formula 18 that was used for Stacy's buyout had an estimated 19 value of the company at around \$6.8 million. 20 Okay? So her around 20 percent stake was valued 21 at about \$1.3 million. With me so far?</p> <p>22 A I understand that to be the formula.</p> <p>23 Q Yeah. Would you have told Reed in May 2020 that 24 you thought \$6.8 million was an accurate estimate 25 of the fair market value of Widen Enterprises?</p>	<p>1 Q Did Reed ever mention that Stacy was in need of 2 cash?</p> <p>3 A No.</p> <p>4 Q Okay. He just -- did he tell you why she wanted 5 to sell any shares at all?</p> <p>6 A No.</p> <p>7 Q Okay. He just said I want to help Stacy by buying 8 all of her shares?</p> <p>9 MR. CHURCHILL: Objection. 10 Misstates testimony.</p> <p>11 BY MR. PALAY:</p> <p>12 Q Well, what did he say?</p> <p>13 A He said he wanted to help.</p> <p>14 Q That was it, he just said I want to help?</p> <p>15 A Yep.</p> <p>16 Q Okay. He didn't mention shares or Stacy?</p> <p>17 A No.</p> <p>18 Q He just called you and said I want to help, and 19 you understood that that meant buy Stacy's shares?</p> <p>20 A I don't know that he called and I don't know 21 exactly the phrasing of it, but it was help his 22 sister was what I knew he was intending to do.</p> <p>23 Q Okay. So how did you ever connect helping Stacy 24 to buying her shares?</p> <p>25 A Because that's what I understood Stacy came to the</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 253	Page 255
<p>1 organization, to ask for help, to --</p> <p>2 Q Okay. So someone told you that that's what was</p> <p>3 being discussed?</p> <p>4 A Someone told me that, yes, and that would have</p> <p>5 been Reed or Mike.</p> <p>6 Q Okay. So -- gotcha. So they -- okay. When did</p> <p>7 Reed first express to you in any interest in</p> <p>8 exploring selling the company?</p> <p>9 A When did Reed first express to you interest in</p> <p>10 selling -- Reed -- Reed came to me in the July,</p> <p>11 June 2020 time frame and said that in two to</p> <p>12 five years from that time, which would put it at</p> <p>13 2022 to 2025, he was looking to move on. Yes.</p> <p>14 Q Did he say what had brought him to that decision?</p> <p>15 A No.</p> <p>16 Q Did you ask?</p> <p>17 A No. But I had connected with that being his age,</p> <p>18 that he was -- I knew him to be 60 years old that</p> <p>19 year, and that that was a reference point for him.</p> <p>20 Q And had you ever talked about, you know, what</p> <p>21 would happen if Reed left the company with Reed</p> <p>22 before? Like succession?</p> <p>23 A I would ask Reed if you die in a plane crash, what</p> <p>24 do you want me to do? And that would have</p> <p>25 historically, talk to Leanne, which is his wife.</p>	<p>1 presenting financials that were verified by a</p> <p>2 reputable company that's not you.</p> <p>3 Q So it's important that Grant Thornton stand behind</p> <p>4 the accuracy of these financials?</p> <p>5 A It's important that Grant Thornton review the</p> <p>6 financials and, yeah, parse through them and leave</p> <p>7 their comments and things and that is made</p> <p>8 available.</p> <p>9 Q Important then to give Grant Thornton accurate</p> <p>10 information when they're doing that assessment?</p> <p>11 A Yes.</p> <p>12 Q Okay. Did you participate in giving Grant</p> <p>13 Thornton that information?</p> <p>14 A To a -- to a degree. Yeah. Whatever they would</p> <p>15 have asked for, I would have provided.</p> <p>16 Q Okay. Were you sort of in charge of providing</p> <p>17 them the information?</p> <p>18 A Information was probably coming at them from</p> <p>19 several sources.</p> <p>20 Q Okay. And did you do anything to make sure the</p> <p>21 information they got was accurate?</p> <p>22 A I didn't verify information. I was trusting that</p> <p>23 the information that was going to them was</p> <p>24 accurate.</p> <p>25 Q Do you know of any information that went to them</p>
Page 254	Page 256
<p>1 And then I would pose the what about both of you,</p> <p>2 and it would be talk to the kids, Jenna and</p> <p>3 Jessie. So I had gone through that casual</p> <p>4 conversation with him.</p> <p>5 Q You had talked to Leanne Widen about what she</p> <p>6 would want if Reed died in a plane crash?</p> <p>7 A I did not talk to Leanne.</p> <p>8 Q Oh.</p> <p>9 A I asked Reed what I should do if something were to</p> <p>10 happen to him. He said you would need to at that</p> <p>11 point in time talk to Leanne.</p> <p>12 Q Got it. Okay. So as part of selling Widen</p> <p>13 Enterprises, did the company retain Grant</p> <p>14 Thornton?</p> <p>15 A We used Grant Thornton for a quality of earnings</p> <p>16 assessment.</p> <p>17 Q What is that?</p> <p>18 A It's a go through your financial statements line</p> <p>19 by line.</p> <p>20 Q Okay. And make sure they're all correct?</p> <p>21 A And validate. Yep. It's a third-party</p> <p>22 assessment.</p> <p>23 Q Yeah. What does that have to do with selling the</p> <p>24 Widen Enterprises?</p> <p>25 A You would want to make sure that you were</p>	<p>1 that was not accurate?</p> <p>2 A I do not.</p> <p>3 Q Did you read the quality of earnings report?</p> <p>4 A I would have read parts of it.</p> <p>5 Q Did you see anything in it that was not accurate?</p> <p>6 A I did not. Or don't recall seeing anything as</p> <p>7 inaccurate.</p> <p>8 (Exhibit No. 14 was marked for</p> <p>9 identification.)</p> <p>10 Q Okay. Do you recognize what's been handed to you</p> <p>11 as Exhibit 14 as that quality of earnings study we</p> <p>12 were talking about from Grant Thornton?</p> <p>13 A I recognize it's 14 and the cover page that, yeah,</p> <p>14 represents financial due diligence.</p> <p>15 Q Okay. Is that what the quality of earnings report</p> <p>16 was called?</p> <p>17 A It was -- yeah, it would be referred to as the</p> <p>18 Q of E, quality of earnings, and what is labeled</p> <p>19 here financial due diligence. Yeah.</p> <p>20 Q Okay. Let's go to 4142. Okay. So this page is</p> <p>21 talking about EBITDA adjustments. And at the top,</p> <p>22 it says, "This adjustment adds back the total base</p> <p>23 compensation, bonus, and fringe for the one-owner</p> <p>24 president founder and executive advisor. These</p> <p>25 two current roles are nonessential to business</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 257	Page 259
<p>1 operations and we understand any duties will be 2 absorbed within the current management structure 3 at no additional cost burden." Is that accurate? 4 I didn't read the parentheticals like you did, 5 but -- 6 A What you read is what is written here. 7 Q Okay. As far as you understand, is that an 8 accurate statement? 9 A It's an accurate statement as to the nonessential 10 nature of those roles in the next environment. 11 Q Well, it says, "Will be absorbed within the 12 current management structure at no additional 13 cost," right? 14 A Yes. 15 Q It doesn't reference anything in the future, does 16 it? 17 A Not in that statement. 18 Q Okay. 19 A Well, will be absorbed. It's a future reference. 20 Q Sure. But by the current management structure? 21 A By the current management structure. 22 Q Okay. And this report on the front is dated 23 June 2021; correct? 24 A Yes. 25 Q And that was before the sale to Acquia; right?</p>	<p>1 A It's from working through the exercise of 2 assembling this. 3 Q Any reason that Grant Thornton wouldn't put that 4 in there here if that's what it meant? 5 MR. CHURCHILL: Objection. Calls 6 for speculation. Lack of foundation. 7 A I don't know why. I don't know. 8 Q Okay. You would agree with me that are, A-R-E, is 9 the present tense of the verb To be? 10 A Agree. 11 Q And it says that these two current roles are 12 nonessential to business operations; correct? 13 A Yep. 14 Q Okay. Fair to say that in the present tense, when 15 this was written, Reed's roles were nonessential 16 to business operations? 17 MR. CHURCHILL: Objection. 18 Document speaks for itself. You can answer 19 the question. 20 BY MR. PALAY: 21 Q I'd take that. 22 MR. CHURCHILL: You can answer the 23 question. 24 A It says these two current roles are nonessential 25 to business operations. That is what it says.</p>
Page 258	Page 260
<p>1 A Correct. 2 Q So -- and I think we talked about this earlier, 3 but the one-owner president founder is referring 4 to Reed; right? 5 A Correct. But I do notice that he's -- he wasn't 6 the founder, so that's -- 7 Q Understood. But that person is Reed? 8 A Correct. 9 Q Okay. And then the executive advisor, is that 10 Gary Norris? 11 A Correct. 12 Q Okay. So accurate to say that as of June 2021, 13 Reed's role was nonessential to business 14 operations? 15 A Nonessential to business operations in the next 16 life, which would be then absorbed by current 17 management, so. 18 Q It doesn't say next life, though, does it? 19 A It does not say next life. No. 20 Q So is what's written here accurate or not 21 accurate? 22 A I interpret the statement to be the roles are 23 nonessential to the future business that may 24 acquire us. 25 Q Where do you derive that interpretation from?</p>	<p>1 Q Okay. And that is an accurate statement as of 2 this time? 3 A When I think about this, I think Reed and Gary 4 were -- they were not nonessential. 5 Q So this is not accurate? 6 A Well, the way -- I think there's an interpretation 7 here, which is -- which I have interpreted this as 8 which is why the EBITDA adjustment, the adjusted 9 EBITDA line is to represent what is needed in the 10 future, so. 11 Q Yeah, but it's -- so we've established that it 12 says are and it's -- that's a present tense verb 13 when it says they are nonessential, and then when 14 you go down under the owner president 15 compensation, it goes 2019 and 2020, and those are 16 both in the past? 17 A Uh-huh. 18 Q I don't see anything about the future here. Do 19 you? 20 A There's no future -- well, there's trailing 21 12 months '21, but that would have likely included 22 a current. As I had stated when we talked about 23 EBITDA adjustments before, to look back was to get 24 a look at what that -- what the future owner would 25 have been realizing with the structure that they</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 261	Page 263
<p>1 would put forth.</p> <p>2 Q So you would tell -- you -- Grant Thornton would</p> <p>3 tell prospective acquirers of the company that</p> <p>4 they should consider the company's EBITDA in 2019</p> <p>5 and 2020 not to include Reed's compensation even</p> <p>6 though Reed's compensation was essential in 2019</p> <p>7 and 2020?</p> <p>8 A They would say you wouldn't include it because the</p> <p>9 future -- because Reed wouldn't stay around. So</p> <p>10 they were saying add back to earnings Reed and</p> <p>11 Gary because the next business, they're not going</p> <p>12 to be here. That's what EBITDA adjustment means</p> <p>13 and that's what Grant Thornton was representing.</p> <p>14 Q Okay. So Reed's compensation was essential in</p> <p>15 2019?</p> <p>16 A Reed's compensation was essential.</p> <p>17 Q Okay.</p> <p>18 A Reed was essential.</p> <p>19 Q Reed was essential in 2019. So this \$1.5 million</p> <p>20 that he was paid was an essential cost of the</p> <p>21 company?</p> <p>22 A Yeah.</p> <p>23 Q Okay. And did you ever represent to anyone that</p> <p>24 that \$1.5 million was not an essential cost of the</p> <p>25 company in 2019?</p>	<p>1 A Because my role would have continued in a</p> <p>2 different capacity in a new buyer, potentially.</p> <p>3 Q Okay. So this is like an alternate universe in</p> <p>4 the past with different facts that -- but</p> <p>5 projecting into the future? I don't understand.</p> <p>6 A This is saying that a potential buyer would not</p> <p>7 incur the same expenses that the current company</p> <p>8 is incurring because of the -- because of what the</p> <p>9 buyer would eventually do, and therefore we're</p> <p>10 going to be able to look at what historical</p> <p>11 financials would be with those things removed or</p> <p>12 added back.</p> <p>13 Q Okay. So if Reed's role was essential in 2019,</p> <p>14 that means that the company would not have done as</p> <p>15 well if he wasn't there; right?</p> <p>16 A If Reed's role was essential in 2019, the company</p> <p>17 would not have done as well, with the exception of</p> <p>18 if we would have replaced Reed with advisors or</p> <p>19 whatever else, like I had --</p> <p>20 Q So how can you represent the rest of the 2019</p> <p>21 financials to a company in which you're saying</p> <p>22 assume Reed wasn't there, but Reed was needed to</p> <p>23 create all the rest of the financials?</p> <p>24 A Yeah. Well, if that's what -- that's what a</p> <p>25 future -- again, a potential buyer would want to</p>
Page 262	Page 264
<p>1 A I don't recall representing that.</p> <p>2 Q Okay. How would it be added back to EBITDA in</p> <p>3 2019 if it was essential?</p> <p>4 A How would it be added back to 2019 if it was</p> <p>5 essential.</p> <p>6 MR. CHURCHILL: Objection.</p> <p>7 Misleading.</p> <p>8 A The -- I think I'm going to repeat what I've said</p> <p>9 before. The potential buyers would want to</p> <p>10 understand the organization the way it would have</p> <p>11 looked with these add-backs, with some history.</p> <p>12 So '19 and '20 are sharing with the potential</p> <p>13 buyers. This is what the organization would have</p> <p>14 liked like if you would have owned it back in '19</p> <p>15 and '20, given these -- these roles that are not</p> <p>16 going to be a part of the transaction.</p> <p>17 Q So -- okay. Well, let's -- so first of all, it</p> <p>18 says CEO compensation for 2019 and 2020,</p> <p>19 145,736,000. Those are the add-backs for your</p> <p>20 compensation; right?</p> <p>21 A Correct.</p> <p>22 Q Okay. Why is it -- and you said your compensation</p> <p>23 was about \$500,000 in 2019; right?</p> <p>24 A Correct.</p> <p>25 Q Why isn't it adding back \$500,000?</p>	<p>1 replay what they're not going to incur backwards</p> <p>2 so they could get a look at, well, what would</p> <p>3 have -- what would 2019 have been.</p> <p>4 Q Okay. If you go down to A, it says owner</p> <p>5 president. It says, "This adjustment removes the</p> <p>6 company's owner compensation, base salary, bonus,</p> <p>7 and fringe during the historical period, but these</p> <p>8 costs are not expected to continue</p> <p>9 post-transaction. We understand the owner is not</p> <p>10 actively involved in the operations of the</p> <p>11 company, and any role in the business will be</p> <p>12 absorbed by current management." Did I read that</p> <p>13 right?</p> <p>14 A You did.</p> <p>15 Q Okay. So help me understand. That is saying</p> <p>16 presently Reed is not actively involved in the</p> <p>17 operations of the company; right?</p> <p>18 A It was saying Grant Thornton understands that.</p> <p>19 Q Okay. And did you tell Grant Thornton that that</p> <p>20 was not accurate?</p> <p>21 A I did not.</p> <p>22 Q Okay. Why not?</p> <p>23 A I don't know.</p> <p>24 Q Should you have?</p> <p>25 A Reading it now, yes.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 265	Page 267
<p>1 Q Okay. If you had to go back, you would tell Grant 2 Thornton can't make that EBITDA adjustment, that's 3 not accurate? 4 MR. CHURCHILL: Objection. 5 Mischaracterizes testimony. 6 A The EBITDA adjustment is made because the 7 potential buyer is trying to replicate what would 8 have happened historically without the cost that 9 they would have been able to add back. So that's 10 what the EBITDA add-back is. 11 Q Okay. So Grant Thornton was just misinformed 12 about whether Reed was actively involved in the 13 company? 14 A Yes. 15 Q Okay. Do you know who told them that? 16 A I don't. 17 Q Okay. It wasn't you, though? 18 A I don't recall. 19 Q Okay. So we should just -- we'll have to ask 20 Grant Thornton that? 21 A I don't know. 22 Q Who at Grant Thornton was responsible for 23 gathering the information from the company for 24 this? 25 A I don't recall.</p>	<p>1 company? 2 A I don't know. 3 Q And when you say actively involved, what do you 4 mean? 5 A When I say -- I didn't say actively involved just 6 now. 7 Q Well, I asked you about actively involved because 8 that's I think the language that the report says. 9 "We understand the owner is not actively involved 10 in the operations of the company." What do you -- 11 and you say he was actively involved? 12 A Yep. 13 Q Okay. So what does that mean? What did he do? 14 A What did Reed do? 15 Q Yeah. 16 A Well, Reed and I would meet at varying times. 17 Reed would provide guidance for me, mentorship for 18 me on his experience and how that can be helpful 19 for me to run the business. He'd weigh in on 20 strategic matters. He would advise on 21 directionally new ventures that we were embarking 22 on. He would challenge expenses for certain 23 things. He would manage relationships with the 24 previously mentioned banking, tax. He would -- 25 yeah, historically he would have the most</p>
Page 266	Page 268
<p>1 Q You don't know who you dealt with at Grant 2 Thornton? 3 A I don't remember that person's name. 4 Q Okay. Why did Reed's compensation between 2019 5 and 2020 change by \$500,000? 6 A That would have likely been a bonus. 7 Q Because the company was doing better? 8 A That would have been a combination of company 9 performance and his performance and -- 10 Q So fair to say 2020 was a better year than 2019? 11 A You have to look across the parameters, the 12 company performance, the individual performance, 13 and the market rate of a chairman. 14 Q Okay. So -- but fair to say looking across those 15 parameters, 2020 must have been a better year than 16 2019 because Reed made 25 percent more money? 17 A 2020 was better in one of those parameters or all 18 of them or some combination thereof. 19 Q The combination; right? 20 A Yeah. 21 Q Okay. So were you -- well, let's scrap that. Do 22 you have any emails or records that would refresh 23 your recollection on who at Grant Thornton was 24 collecting the information that said that Reed was 25 not actively involved in the operations of the</p>	<p>1 significant customer relationships that continued 2 into the current environment, so. 3 Q What were those significant customer relationships 4 that Reed had? 5 A One was called Edge Advertising. That was a 6 customer relationship that he had, and the contact 7 name there was Cheryl Crugland. And Edge was a -- 8 Edge was a significant contributor to the health 9 of the organization, and Reed kept that 10 relationship. 11 Q One of your biggest customers? 12 A Absolutely. Yep. Reed also kept relations with 13 the -- as an executive with another executive at 14 Reebok for our work with them. Also another very 15 sizable customer that contributed to our financial 16 success. 17 Q On the size of customers, where do Edge and Reebok 18 fall? 19 A I would guess each of those customers was about 20 \$2 million each at their peaks. 21 Q Okay. And what's, like, Widen's top customer in 22 2019 and 2020 paying? 23 A The Edge relationship was -- that changed over, so 24 in 2020, that wasn't the same volume that we used 25 to have with them.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

<p style="text-align: right;"><b>Page 269</b></p> <p>1 Q What was it in 2020?</p> <p>2 A I don't recall Edge's revenue in 2020.</p> <p>3 Q Not 2 million?</p> <p>4 A It was -- no, it was not 2 million.</p> <p>5 Q 1 million?</p> <p>6 A I don't know.</p> <p>7 Q Okay. Why -- so but Reed was -- but sounds like</p> <p>8 the customer relationship that Reed managed</p> <p>9 declined?</p> <p>10 A The -- well, the main contact for Edge, Cheryl,</p> <p>11 she had retired in that duration, and Reed was</p> <p>12 executive sponsor of that particular account.</p> <p>13 Q Okay. Yeah. So, okay. So you said you looked at</p> <p>14 the kind of the rate that a chairman at a similar</p> <p>15 company would get?</p> <p>16 A I would look at --</p> <p>17 Q You did that or you would?</p> <p>18 A I didn't do that formally. I would casually</p> <p>19 understand it just by my general readings of</p> <p>20 business literature.</p> <p>21 Q And did you understand that at a company of</p> <p>22 similar size to Widen, a chairman would make</p> <p>23 between 1.5 and \$2 million?</p> <p>24 A I would say from my understanding, from the</p> <p>25 general readings that I had when I see these, I</p>	<p style="text-align: right;"><b>Page 271</b></p> <p>1 A I'd have to find an expert.</p> <p>2 Q Okay. Did you ever do that?</p> <p>3 A I did not.</p> <p>4 Q Okay. So what led you to believe that these</p> <p>5 numbers were reasonable?</p> <p>6 A I would read business literature casually and</p> <p>7 understand when certain wages were posted and</p> <p>8 shared in various popular business articles, that</p> <p>9 you would read those and you would think, okay.</p> <p>10 Q Like which ones did you compare it to?</p> <p>11 A I don't have a specific one, but I would just say</p> <p>12 generally I could -- I read the popular business</p> <p>13 literature that's --</p> <p>14 Q Okay. Can you point me to any specific piece of</p> <p>15 information that led you to believe that the --</p> <p>16 Reed's 1.5 million in 2019 and 2 million in 2020</p> <p>17 was a reasonable amount of compensation for what</p> <p>18 Reed did at the company?</p> <p>19 A No.</p> <p>20 Q Okay.</p> <p>21 MR. PALAY: Do you guys want to</p> <p>22 take a break? Probably come back and do the</p> <p>23 last round.</p> <p>24 MR. CHURCHILL: Sure.</p> <p>25 THE VIDEOGRAPHER: We're going off</p>
<p style="text-align: right;"><b>Page 270</b></p> <p>1 think, okay. That's -- that's --</p> <p>2 Q Seems normal?</p> <p>3 A That's good. Yeah.</p> <p>4 Q About what percentage of a company's market value</p> <p>5 is it reasonable to pay a chairman?</p> <p>6 MR. CHURCHILL: Objection. Calls</p> <p>7 for expert testimony. Lack of foundation.</p> <p>8 A I don't know.</p> <p>9 Q Okay. Do you think it's -- do you think</p> <p>10 30 percent is too high?</p> <p>11 MR. CHURCHILL: Same objections.</p> <p>12 A I don't know.</p> <p>13 Q You don't know?</p> <p>14 A I don't know.</p> <p>15 Q So you think it might be reasonable for a company</p> <p>16 to pay its chairman annually 30 percent of its</p> <p>17 fair market value?</p> <p>18 MR. CHURCHILL: Objection.</p> <p>19 Mischaracterizes testimony.</p> <p>20 A Yeah, I don't know.</p> <p>21 Q Okay. How would you figure that out?</p> <p>22 A How do I figure out percentage?</p> <p>23 Q Yeah. Like if it's reasonable for a chairman to</p> <p>24 receive, yeah, 20 or 30 percent of a company's</p> <p>25 market value annually.</p>	<p style="text-align: right;"><b>Page 272</b></p> <p>1 the record. The time is 4:55 p.m. This is</p> <p>2 the end of media unit number five.</p> <p>3 (A recess is taken from 4:55 p.m. to 5:16 p.m.)</p> <p>4 THE VIDEOGRAPHER: We're going back</p> <p>5 on the record. The time is 5:16 p.m. This</p> <p>6 is the beginning of media unit number six.</p> <p>7 BY MR. PALAY:</p> <p>8 Q Welcome back, Mr. Gonnering. I am just getting</p> <p>9 situated here, if you'll just bear with me for a</p> <p>10 second. Okay. I don't recall what we are talking</p> <p>11 about before. If you do, let me know.</p> <p>12 A I don't.</p> <p>13 Q Yeah, it's been a long day at this point, right.</p> <p>14 A It has.</p> <p>15 Q Okay. You said the earlier -- earlier in the</p> <p>16 deposition that on I think August 24th, 2020, you</p> <p>17 alerted Reed to a significant transaction in the</p> <p>18 space. Can you tell me a little bit about that?</p> <p>19 A Yes. There was a press release issued by -- I</p> <p>20 don't recall the source, but it would have --</p> <p>21 represented that a company called Brandfolder was</p> <p>22 acquired by a company called Smartsheet and that</p> <p>23 the transaction amount for that was 155 million,</p> <p>24 which I had to read a lot of times because that</p> <p>25 was a shocker.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 273	Page 275
<p>1 So that transaction was significant because</p> <p>2 Brandfolder was someone who would be in the finals</p> <p>3 when we would compete for business. And so to see</p> <p>4 a company that was in the finals like us for</p> <p>5 winning digital asset management business share a</p> <p>6 transaction amount of 155 million was -- was</p> <p>7 unfathomable. It was --</p> <p>8 <b>Q Good news?</b></p> <p>9 A It was just this is difficult to process that</p> <p>10 this -- this kind of transaction just took place.</p> <p>11 So that was the -- yeah. As I said, the reaction</p> <p>12 was I'm going to have to read this thing a lot of</p> <p>13 times because I'm not sure that I am reading it</p> <p>14 right.</p> <p>15 <b>Q Because you didn't think that your company was</b></p> <p>16 <b>worth 155 million?</b></p> <p>17 A Not -- no. That company valuation that they were</p> <p>18 communicating 155 million was crazy. It was --</p> <p>19 <b>Q What multiple of annual recurring revenue did that</b></p> <p>20 <b>transaction price imply for the Brandfolder</b></p> <p>21 <b>acquisition?</b></p> <p>22 A What I did in that was I estimated, took guesses</p> <p>23 on what that revenue might have been, and then</p> <p>24 applied it against that 155 and then made the</p> <p>25 assumption of somewhere between seven and eight</p>	<p>1 just happened.</p> <p>2 <b>Q Okay. Why would Reed care about that?</b></p> <p>3 A Again, for market -- what's going on in the</p> <p>4 market.</p> <p>5 <b>Q Okay. Just like out of curiosity, what impact</b></p> <p>6 <b>would that have to Reed?</b></p> <p>7 A What impact would knowledge of that transaction</p> <p>8 have on Reed?</p> <p>9 <b>Q Yeah. Why --</b></p> <p>10 MR. CHURCHILL: Objection. Calls</p> <p>11 for --</p> <p>12 BY MR. PALAY:</p> <p>13 <b>Q Why did he need to know that?</b></p> <p>14 MR. CHURCHILL: Object to the</p> <p>15 extent it calls for speculation.</p> <p>16 A I thought Reed should know about it.</p> <p>17 <b>Q Yeah. How come?</b></p> <p>18 A Because he needs to be informed on what's</p> <p>19 happening in the market, and this was a</p> <p>20 significant activity in the market.</p> <p>21 <b>Q Did Reed stay apprized of what was happening in</b></p> <p>22 <b>the market on his own, or did he just rely on you</b></p> <p>23 <b>for that?</b></p> <p>24 MR. CHURCHILL: Objection. Calls</p> <p>25 for speculation.</p>
Page 274	Page 276
<p>1 times revenue.</p> <p>2 <b>Q Which was much higher than the assumption you'd</b></p> <p>3 <b>been using for years of three to five times</b></p> <p>4 <b>revenue?</b></p> <p>5 A That was higher than the assumption that I had</p> <p>6 seen previously from WebDAM as the other most</p> <p>7 prominent example.</p> <p>8 <b>Q That was the 6.5 times one or --</b></p> <p>9 A No. The WebDAM example was the --</p> <p>10 <b>Q Three to five?</b></p> <p>11 A Three to five.</p> <p>12 <b>Q Okay.</b></p> <p>13 A Yeah. They sold to Bynder for three to five.</p> <p>14 <b>Q Okay.</b></p> <p>15 A So to see this one and then estimate their revenue</p> <p>16 and to calculate that at seven to eight was a</p> <p>17 shock.</p> <p>18 <b>Q So at that point you thought Widen Enterprises is</b></p> <p>19 <b>a company worth, you know, somewhere around what</b></p> <p>20 <b>Brandfolder's worth because they're up here?</b></p> <p>21 A I didn't know what we were worth at that time, but</p> <p>22 it was something that I had --</p> <p>23 <b>Q But you might be, I guess, is --</b></p> <p>24 A Well, I had to communicate it to Reed, that it was</p> <p>25 so significant that, like, Reed needs to know this</p>	<p>1 A I don't know what Reed relied on outside of what I</p> <p>2 would provide.</p> <p>3 <b>Q Okay. And when you provided Reed information on</b></p> <p>4 <b>the market, was it in the form of these</b></p> <p>5 <b>operational updates we've been looking or in other</b></p> <p>6 <b>forms?</b></p> <p>7 A That was the dominant form.</p> <p>8 <b>Q Okay. Like how often did you give him an</b></p> <p>9 <b>operational update?</b></p> <p>10 A I would guess that to be every other week or every</p> <p>11 month.</p> <p>12 <b>Q Okay. And then when you put those together, they</b></p> <p>13 <b>look -- I mean they're long, thoughtful documents.</b></p> <p>14 <b>Did you -- were you, like, reviewing company</b></p> <p>15 <b>financial information to make sure it was accurate</b></p> <p>16 <b>when you put it in those updates?</b></p> <p>17 A Those updates included financial information from</p> <p>18 our budgeting and our financial systems.</p> <p>19 <b>Q Okay. So you just look it up on the system or --</b></p> <p>20 A I would like it up as to what is current and then</p> <p>21 put that into that format.</p> <p>22 <b>Q How long do you think it took you to put those</b></p> <p>23 <b>operational updates together every other week or</b></p> <p>24 <b>every month, whenever you did it?</b></p> <p>25 A I don't know.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 277	Page 279
<p>1 Q Was that, like, an important task to you? It</p> <p>2 looks to me when I read those like you sat down</p> <p>3 and, you know, spend a good chunk of time, you</p> <p>4 know, typing it out, making sure it was made</p> <p>5 sense, et cetera?</p> <p>6 A Yeah.</p> <p>7 Q Is that accurate?</p> <p>8 A It is accurate.</p> <p>9 Q Okay. Let's look at this.</p> <p>10 (Exhibit No. 15 was marked for</p> <p>11 identification.)</p> <p>12 Q Okay. So this is I think the email we were just</p> <p>13 talking about. Okay. Apparent -- you lied, it's</p> <p>14 August 25th, not August 24th, but we can forgive</p> <p>15 that.</p> <p>16 A Can I make a comment regarding that.</p> <p>17 Q Yeah, sure.</p> <p>18 A The first line in my email to Reed on August</p> <p>19 the 25th, a transaction in our industry was</p> <p>20 announced yesterday.</p> <p>21 Q Nice.</p> <p>22 A So --</p> <p>23 Q Fair.</p> <p>24 A So it would have been announced --</p> <p>25 Q I misunderstood it as when you -- yeah. You had</p>	<p>1 does not have the same market presence or size. I</p> <p>2 would guess they were between 15 to 20 million in</p> <p>3 annual revenue." And you said, "Article here</p> <p>4 shares 12 million in 2017 to 2018 plus growth. At</p> <p>5 20 million, that is a 7.75 time -- that is 7.7</p> <p>6 times -- 7.75 times revenue. A noteworthy</p> <p>7 transaction." Did I read that-ish correctly? It</p> <p>8 wasn't perfect.</p> <p>9 A Ish.</p> <p>10 Q Okay. Anything worth correcting?</p> <p>11 A Not at this time. No.</p> <p>12 Q Okay. So when you said Brandfolder does not have</p> <p>13 the same market presence or size, did you mean in</p> <p>14 comparison to Widen Enterprises?</p> <p>15 A I meant in comparison to our market presence, and</p> <p>16 what I would mean by market presence is</p> <p>17 reputation. And my inference on size was size</p> <p>18 related to my assumption of their revenue.</p> <p>19 Q Okay. And those are compared to -- okay. And</p> <p>20 those are comparing Brandfolder as you ascertain</p> <p>21 them to what you knew to be those things for Widen</p> <p>22 Enterprises?</p> <p>23 A Would I --</p> <p>24 Q When you say same, what's -- same as what?</p> <p>25 A Yeah, same as -- same as our presence or same as</p>
Page 278	Page 280
<p>1 the date of the transaction in your mind?</p> <p>2 A Correct.</p> <p>3 Q Got it. And I was kidding about the lying, by the</p> <p>4 way. That was just a -- for the record, that was</p> <p>5 a joke.</p> <p>6 MR. CHURCHILL: Move to strike.</p> <p>7 MR. PALAY: Stricken.</p> <p>8 BY MR. PALAY:</p> <p>9 Q So you said --</p> <p>10 MR. CHURCHILL: Lawyer jokes, it's</p> <p>11 late in the day, you just got to let it</p> <p>12 happen, Matthew. It's not funny to anybody</p> <p>13 else but us. Don't worry.</p> <p>14 MR. PALAY: It's not even funny.</p> <p>15 BY MR. PALAY:</p> <p>16 Q You said, "Morning, Reed. A transaction in our</p> <p>17 industry was announced yesterday." August 24th,</p> <p>18 that was my editorial. "A publicly-traded company</p> <p>19 called Smartsheet shared the following in this</p> <p>20 article," that appears to be linked, smart -- this</p> <p>21 is quoted, "Smartsheet will pay approximately</p> <p>22 \$155 million for the acquisition subject to</p> <p>23 certain customary adjustments and indemnification</p> <p>24 obligations with a combination of cash and stock."</p> <p>25 And you go on to say to Reed, "Brandfolder</p>	<p>1 our size.</p> <p>2 Q Okay.</p> <p>3 A That's what I meant.</p> <p>4 Q So -- and it says -- Reed says back, "If our</p> <p>5 number is over 200 million, it's time to look at</p> <p>6 selling." And that -- by that, you took Reed to</p> <p>7 mean selling Widen Enterprises, I'm assuming?</p> <p>8 A That's what I would -- yeah, that's what I took</p> <p>9 that to mean.</p> <p>10 Q Okay. Is that \$200 million number something you</p> <p>11 guys had discussed ever?</p> <p>12 A No.</p> <p>13 Q Is the 200 million what would be implied for a</p> <p>14 selling price of Widen Enterprises if it sold at</p> <p>15 the 7.75 times revenue that you are guesstimating</p> <p>16 Brandfolder sold at?</p> <p>17 A I don't know where Reed got that 200 million.</p> <p>18 Q Okay. But you had already discussed the</p> <p>19 possibility of a sale at some point in the two to</p> <p>20 five-year horizon at this point, right, with Reed?</p> <p>21 A Reed expressed in July, June that in two to</p> <p>22 five years, we would look at whatever is next.</p> <p>23 Q And you took that to mean selling?</p> <p>24 A The possibility of him moving on.</p> <p>25 Q Okay.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 281	Page 283
<p>1 A Which would be now we've got to figure out what</p> <p>2 that means.</p> <p>3 Q Where did you have this conversation with Reed?</p> <p>4 A I recall that conversation with Reed at the Widen</p> <p>5 building.</p> <p>6 Q Okay.</p> <p>7 A In Madison. Or Monona, technically.</p> <p>8 Q And did Reed spend part of the year in Arizona?</p> <p>9 A I don't know.</p> <p>10 Q Okay. Was there -- were there a period of months</p> <p>11 during the year where Reed would not come to the</p> <p>12 Widen Enterprises office?</p> <p>13 A I don't know how long he would not come to the</p> <p>14 office. I knew that he would go to Arizona. I</p> <p>15 don't know how long he would go there.</p> <p>16 Q Okay. Sometimes he'd invite you down there;</p> <p>17 right?</p> <p>18 A I believe he invited me.</p> <p>19 Q And was Brandfolder smaller than Widen</p> <p>20 Enterprises?</p> <p>21 A Based on some of the assumptions that I was</p> <p>22 tracking and understanding, I guessed that</p> <p>23 Brandfolder was smaller than us.</p> <p>24 Q Okay. And you guessed that Widen -- or I guess I</p> <p>25 shouldn't say you guess. You knew that Widen</p>	<p>1 Q And he's saying if we can sell the company for</p> <p>2 over \$200 million, it's time to look at doing</p> <p>3 that?</p> <p>4 A That's what I take that to mean. If our number is</p> <p>5 over 200 million, it's time to look at selling.</p> <p>6 Q Okay.</p> <p>7 A And I didn't know what our number was.</p> <p>8 Q Sure. Did -- let's change gears and talk about</p> <p>9 Stacy for a little bit. What did you know about</p> <p>10 Stacy's role at Widen Enterprises and Windy Waters</p> <p>11 up through her buyout?</p> <p>12 A I knew that she was a director of the company.</p> <p>13 Q How did you know that?</p> <p>14 A I don't know.</p> <p>15 Q Okay. And when you say the company, you mean</p> <p>16 Windy Waters; correct?</p> <p>17 A Correct.</p> <p>18 Q Because you knew that she was not a director of</p> <p>19 Widen Enterprises?</p> <p>20 A Correct.</p> <p>21 Q Okay. Did you ever hear of anything Stacy did as</p> <p>22 a director of Windy Waters?</p> <p>23 A I did not.</p> <p>24 Q Okay. Did that strike you as strange for a</p> <p>25 director never to do anything?</p>
Page 282	Page 284
<p>1 Enterprises' market presence was more significant</p> <p>2 than Brandfolder's?</p> <p>3 A I didn't know that. I would have said I feel the</p> <p>4 Widen brand reputation is stronger than</p> <p>5 Brandfolder's.</p> <p>6 Q Okay. So by August 25th, you knew Widen was worth</p> <p>7 more than \$7 million?</p> <p>8 A By August 20th, I didn't --</p> <p>9 Q Of 2020.</p> <p>10 A I didn't know what Widen was worth.</p> <p>11 Q Okay. You thought it might have still been worth</p> <p>12 zero or \$7 million at -- on this date when a</p> <p>13 company of less prominence and what you thought to</p> <p>14 be lower revenues sold for \$155 million?</p> <p>15 A Yeah, I didn't know what the value of Widen was at</p> <p>16 this time because we weren't doing that.</p> <p>17 Q What do you mean you weren't doing that?</p> <p>18 A We weren't assessing value. We weren't</p> <p>19 determining what the value of Widen was at that</p> <p>20 time.</p> <p>21 Q So what did Reed mean when he said if our number</p> <p>22 is over 200 million, it's time to look at selling?</p> <p>23 A That's the first time I would have seen him</p> <p>24 express, all right, there's a number that Reed</p> <p>25 has, and he just told me what that number is.</p>	<p>1 MR. CHURCHILL: Objection.</p> <p>2 Mischaracterizes testimony.</p> <p>3 A I wasn't part of the Windy Waters organization, so</p> <p>4 I didn't have visibility into what her role would</p> <p>5 or would not have been.</p> <p>6 Q Well, you were a shareholder; right?</p> <p>7 A I was a shareholder.</p> <p>8 Q How many other shareholders were there?</p> <p>9 A I don't know the number off hand. I could try to</p> <p>10 count them.</p> <p>11 Q Okay. When you say you didn't have visibility</p> <p>12 into the Windy Waters organization, who had</p> <p>13 visibility into that organization?</p> <p>14 A Well, that would have been Reed.</p> <p>15 Q Just Reed?</p> <p>16 MR. CHURCHILL: Object. Calls for</p> <p>17 speculation.</p> <p>18 A Yeah, I don't know who had visibility into the</p> <p>19 organization.</p> <p>20 Q Other than Reed?</p> <p>21 A Correct.</p> <p>22 Q Okay.</p> <p>23 (Exhibit No. 16 was marked for</p> <p>24 identification.)</p> <p>25 Q Okay. So Exhibit 16 looks to be a couple of</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 285	Page 287
<p>1 emails between you and Michael Kiesler; is that</p> <p>2 correct?</p> <p>3 A Yes.</p> <p>4 Q Okay. The top one's dated May 22nd, 2020; right?</p> <p>5 A Uh-huh.</p> <p>6 Q And that's I think about a little over a week</p> <p>7 after Stacy's buyout on May 13th, 2020; does that</p> <p>8 sound right?</p> <p>9 A I rely on the dates that you've just provided.</p> <p>10 Q Okay. And you said to Mike Kiesler, "I looked</p> <p>11 through what I have for corporate governance</p> <p>12 documentation, paren, what you previously sent</p> <p>13 here linked, and have a few questions." So let's</p> <p>14 stop there. What corporate governance</p> <p>15 documentation did you look at?</p> <p>16 A I don't recall what I looked at.</p> <p>17 Q Okay. What corporate governance documentation</p> <p>18 were you aware of at that time?</p> <p>19 A I wasn't aware of anything prior to asking about</p> <p>20 it.</p> <p>21 Q Okay. And you -- this is corporate governance</p> <p>22 documentation for Windy Waters and Widen</p> <p>23 Enterprises?</p> <p>24 A Whatever corporate governance documentation that</p> <p>25 was out there.</p>	<p>1 Q Okay. So you didn't have any knowledge of her</p> <p>2 being a director by seeing any actions she'd ever</p> <p>3 taken or talking to her or anything like that?</p> <p>4 A Correct.</p> <p>5 Q Okay. And then I don't think we need to move</p> <p>6 through this whole thing. In the next email down,</p> <p>7 Mike Kiesler responds to you in red, though ours</p> <p>8 is not red, but looks like he also put it in caps,</p> <p>9 so. In point three, you asked him, "In the event</p> <p>10 such documentation exists for her role and bylaws</p> <p>11 exist for Widen Enterprises, Inc., and/or Windy</p> <p>12 Waters, I would like to understand how those</p> <p>13 bylaws should be used to remove a director."</p> <p>14 Why did you want to know how to remove a</p> <p>15 director?</p> <p>16 A I knew that she was a director and I knew that she</p> <p>17 was no longer part of the organization, and that</p> <p>18 was the reason for my inquiry.</p> <p>19 Q Okay. And Scott says, "I've been communicating</p> <p>20 with" -- or, excuse me, Mike says, "I've been</p> <p>21 communicating with Scott regarding this as part of</p> <p>22 Stacy's share buyout. The redemption agreement</p> <p>23 incorporated language to remove her of all duties.</p> <p>24 I asked Scott to advise as to best approach to</p> <p>25 protect the piercing of the corporate shield with</p>
Page 286	Page 288
<p>1 Q For either of those two companies?</p> <p>2 A Correct.</p> <p>3 Q Okay. And you asked, "Do we have bylaws for Widen</p> <p>4 Enterprises, Inc, or Windy Waters? The documents</p> <p>5 I have are historical for engraving and color</p> <p>6 graphics, and we referenced these when evaluating</p> <p>7 whether a special board meeting was necessary."</p> <p>8 So you were not aware of bylaws for Widen</p> <p>9 Enterprises and/or Windy Waters as of this date?</p> <p>10 A I don't believe so.</p> <p>11 Q Okay. And then you said, "Two. The buyback of</p> <p>12 Stacy's shares triggers this for me since she has</p> <p>13 a, quote, director role. However, I only know she</p> <p>14 has this role through dialogue with you. Is there</p> <p>15 documentation that supports her role as a</p> <p>16 director?" Do you see that?</p> <p>17 A Yep.</p> <p>18 Q Okay. So you say that you only know that Stacy</p> <p>19 has a director role through conversations with</p> <p>20 Michael Kiesler?</p> <p>21 A That's what this says. Yeah.</p> <p>22 Q Was that accurate?</p> <p>23 A That is what I said at this point in time, so I</p> <p>24 would take that to be, yeah, that's how I would</p> <p>25 know she was a director.</p>	<p>1 respect to a replacement." I'll stop there.</p> <p>2 What did you understand Scott or Mike to mean</p> <p>3 about protecting against the piercing of the</p> <p>4 corporate shield?</p> <p>5 A I don't understand what Mike meant there.</p> <p>6 Q Okay. Did you ask him?</p> <p>7 A I don't recall.</p> <p>8 Q Okay. Did you write him an email asking him?</p> <p>9 A I don't recall.</p> <p>10 Q Okay. Going back to that Grant Thornton quality</p> <p>11 of earnings report we were looking at, and you</p> <p>12 were saying you didn't think some of the</p> <p>13 statements in there were accurate. Do you know</p> <p>14 who besides you and Reed could have provided Grant</p> <p>15 Thornton that information?</p> <p>16 A Do I know who could have provided Grant Thornton</p> <p>17 that information. I do not.</p> <p>18 Q Can you think of anyone other than you or Reed who</p> <p>19 could have told Grant Thornton about Reed's</p> <p>20 involvement or lack of involvement in the company?</p> <p>21 A No.</p> <p>22 Q Okay. Do you think it was you or Reed who told</p> <p>23 Grant Thornton that?</p> <p>24 A I -- I don't think that Grant Thornton was told</p> <p>25 that, so.</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 289	Page 291
<p>1 Q You think Grant Thornton just made it up?</p> <p>2 A I don't think they made it up, but I -- yeah, I</p> <p>3 don't -- I don't know where it came from.</p> <p>4 (Exhibit No. 17 was marked for</p> <p>5 identification.)</p> <p>6 Q So Exhibit 17 is a letter to you from Grant</p> <p>7 Thornton; is that accurate, dated February 16th of</p> <p>8 2021?</p> <p>9 A A letter and an attachment to the letter.</p> <p>10 Q Yeah. And the letter, it's an engagement letter</p> <p>11 for advisory services; right?</p> <p>12 A Engagement letter for advisory services. Yes.</p> <p>13 Q And on page 2 you signed this; right?</p> <p>14 A That is correct.</p> <p>15 Q Okay. And on page 3 at point two, it says</p> <p>16 Management Responsibilities. It says, "Grant</p> <p>17 Thornton assumes no management responsibilities</p> <p>18 for client." And client is Widen Enterprises; is</p> <p>19 that correct?</p> <p>20 A Correct.</p> <p>21 Q "Accordingly, client agrees to perform all</p> <p>22 management responsibilities and oversee the</p> <p>23 services by designating an individual preferably</p> <p>24 within senior management who possesses suitable</p> <p>25 skill, knowledge, and experience to evaluate the</p>	<p>1 Q So do you accept responsibility for the results of</p> <p>2 that providing them of information to Grant</p> <p>3 Thornton?</p> <p>4 A I accept responsibility for providing information</p> <p>5 to Grant Thornton.</p> <p>6 Q Okay.</p> <p>7 A Yes.</p> <p>8 Q But you disclaim the accuracy of what's in the</p> <p>9 report now?</p> <p>10 A I interpret that differently. I see that when we</p> <p>11 talked about that last differently.</p> <p>12 Q Okay. You see it as instead of saying Reed is not</p> <p>13 actively involved as saying Reed will not be</p> <p>14 actively involved?</p> <p>15 A Correct. With the potential buyer.</p> <p>16 Q Okay. And do you have any basis in the document</p> <p>17 for that reading, or is that just something you're</p> <p>18 bringing to the document?</p> <p>19 A That's something that I know was communicated, and</p> <p>20 that's back to the use of it, which is as part of</p> <p>21 the add-back to earnings calculation, which is</p> <p>22 indicating, as add-backs do, what a potential</p> <p>23 buyer would not incur in expenses. And we knew</p> <p>24 certain activities would not continue.</p> <p>25 Q So what does the nonessential mean when it says</p>
Page 290	Page 292
<p>1 adequacy and results of the services performed and</p> <p>2 accept responsibility for the results of the</p> <p>3 services." Do you see that?</p> <p>4 A I do.</p> <p>5 Q Okay. Did Widen Enterprises do that? Did they</p> <p>6 assign an individual within senior management to</p> <p>7 accept responsibility for the results of their</p> <p>8 services?</p> <p>9 A That would have been me.</p> <p>10 Q Okay. So you accept responsibility for the</p> <p>11 results of the Grant Thornton services?</p> <p>12 A I do.</p> <p>13 Q Okay. And the results of those services were that</p> <p>14 quality of earnings due diligence report we looked</p> <p>15 at right?</p> <p>16 A Correct.</p> <p>17 Q So do you accept responsibility for the</p> <p>18 information that is contained in that report that</p> <p>19 purports to be information that was provided to</p> <p>20 Grant Thornton by the company?</p> <p>21 A I accept that Grant Thornton assembled their</p> <p>22 financial due diligence with information that was</p> <p>23 provided to the best of their ability and that to</p> <p>24 the best of my ability I reviewed that document</p> <p>25 and --</p>	<p>1 Reed's services are not essential?</p> <p>2 MR. CHURCHILL: Objection to the</p> <p>3 extent it calls for speculation.</p> <p>4 A I don't know what that means.</p> <p>5 Q Yeah, I mean, it says these services are</p> <p>6 nonessential; right? It's 4142. And the top</p> <p>7 paragraph, it says, "These two current roles,"</p> <p>8 referring to Reed and Gary, "are nonessential to</p> <p>9 business operations, and we understand any duties</p> <p>10 will be absorbed within the current management</p> <p>11 structure at no additional cost or burden."</p> <p>12 What -- how can you read that to be referring to a</p> <p>13 postacquisition period?</p> <p>14 A I read it as it relates to the nature of its use</p> <p>15 as an adjustment, which is what an EBITDA</p> <p>16 adjustment is.</p> <p>17 Q I don't understand. So when it says these two</p> <p>18 current roles are nonessential, you read that to</p> <p>19 mean these two current roles are essential?</p> <p>20 A These two current roles are nonessential to the</p> <p>21 business operations with the potential buyer.</p> <p>22 Because those roles would not continue into the</p> <p>23 next state.</p> <p>24 Q But there is no buyer today, right, at the time of</p> <p>25 this document?</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 293	Page 295
<p>1 A That's correct.</p> <p>2 Q So how can they not be essential to a buyer that</p> <p>3 doesn't exist?</p> <p>4 A That's the intent of the EBITDA adjustment, which</p> <p>5 is to say that the nature of an EBITDA adjustment</p> <p>6 is that a potential buyer is able to say I will</p> <p>7 not incur these particular expenses, and therefore</p> <p>8 I can add them back to earnings and I can look at</p> <p>9 the historical financials through that same lens.</p> <p>10 Q Okay. So the basis for them not incurring those</p> <p>11 expenses is that Reed and Gary's roles are</p> <p>12 nonessential; is that accurate?</p> <p>13 A The basis of those are that those roles would not</p> <p>14 continue into the next phase of the business,</p> <p>15 whatever the acquirer would be.</p> <p>16 Q That's not what this says, though, is it?</p> <p>17 MR. CHURCHILL: Objection. Lack of</p> <p>18 foundation. Calls for speculation.</p> <p>19 BY MR. PALAY:</p> <p>20 Q This doesn't say add these back because these two</p> <p>21 roles won't continue. It says these two current</p> <p>22 roles are nonessential.</p> <p>23 MR. CHURCHILL: Same objections.</p> <p>24 A I don't know what they mean in that statement.</p> <p>25 Q But you read that to mean these two current roles</p>	<p>1 A I don't know what I'd do.</p> <p>2 Q Okay. But you feel that this is accurate or not</p> <p>3 accurate?</p> <p>4 A Reed and Gary were essential to business</p> <p>5 operations.</p> <p>6 Q When did they stop being essential?</p> <p>7 A They --</p> <p>8 MR. CHURCHILL: Objection.</p> <p>9 Ambiguous. You can answer.</p> <p>10 A When did they stop being essential.</p> <p>11 Q Because they're not there right now; right?</p> <p>12 A Right. Which is where I'm thinking of they're not</p> <p>13 essential because they opted out of the business.</p> <p>14 They weren't a part of the next phase of the</p> <p>15 business. They weren't included in the next --</p> <p>16 Q They're not essential because they're not there?</p> <p>17 MR. CHURCHILL: Same objections.</p> <p>18 A Repeat for me, please, or restate?</p> <p>19 Q I don't understand -- can you -- I don't</p> <p>20 understand your testimony. When did Reed and --</p> <p>21 Reed and Gary are not involved in the business</p> <p>22 now; right?</p> <p>23 A Correct.</p> <p>24 Q And the business is functioning?</p> <p>25 A Correct.</p>
Page 294	Page 296
<p>1 won't continue?</p> <p>2 A These two roles won't continue is what I use as an</p> <p>3 explanation based on the EBITDA adjustment</p> <p>4 categorization of this.</p> <p>5 Q Okay. So if you had this to do over again, you</p> <p>6 would correct this document that Grant Thornton</p> <p>7 used to do financial due diligence on the company</p> <p>8 as it was preparing to sell?</p> <p>9 MR. CHURCHILL: Objection. Calls</p> <p>10 for speculation. Lack of foundation.</p> <p>11 A I don't know what I'd do.</p> <p>12 Q Well, would you leave it like this?</p> <p>13 MR. CHURCHILL: Same objections.</p> <p>14 A I don't know what I'd do.</p> <p>15 Q Okay. Why would you not correct it if it's wrong?</p> <p>16 MR. CHURCHILL: Objection.</p> <p>17 Mischaracterizes testimony.</p> <p>18 A I didn't say that I wouldn't correct it. I said I</p> <p>19 didn't know what I would correct or how I would</p> <p>20 correct.</p> <p>21 Q Okay. But you would correct it in some way?</p> <p>22 MR. CHURCHILL: Objection.</p> <p>23 Mischaracterizes testimony.</p> <p>24 A I don't know what I would do.</p> <p>25 Q Okay. Would you do nothing?</p>	<p>1 Q Okay. It's functioning without Reed and Gary?</p> <p>2 A It's functioning without Reed and Gary, and they</p> <p>3 became nonessential when the new organization, the</p> <p>4 new owners took over because those roles and</p> <p>5 duties were provided through other roles that</p> <p>6 already existed within Acquia.</p> <p>7 Q Okay. But they were essential at the time this</p> <p>8 document was written?</p> <p>9 A They were essential to the business at the time of</p> <p>10 this document.</p> <p>11 Q Okay. So you -- and they were essential because</p> <p>12 Reed provided you with a lot of guidance and had</p> <p>13 some customer relationships and was a mentor, and</p> <p>14 what else did he do?</p> <p>15 A Yeah. Reed -- yeah, Reed provided me with</p> <p>16 mentorship and guidance and direction.</p> <p>17 Strategically he would weigh in on directional</p> <p>18 matters such as additional products or he would</p> <p>19 weigh in on the --</p> <p>20 Q What's, like, an additional product that Reed</p> <p>21 thought of?</p> <p>22 A He would participate in what additional products</p> <p>23 that were being ideated. So one example of that</p> <p>24 was a product information management system that</p> <p>25 we were exploring in 2018/2019, in that time</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 297	Page 299
<p>1 period.</p> <p>2 Q Okay. He weighed in on that?</p> <p>3 A He would weigh in on that.</p> <p>4 Q Okay. And his weigh-in was really important?</p> <p>5 A Yeah.</p> <p>6 Q What did he say?</p> <p>7 A I don't recall exactly what he said.</p> <p>8 Q It was essential, but you don't recall what he said?</p> <p>9</p> <p>10 A It was part of the guidance that he provided.</p> <p>11 Q Okay. What was the guidance?</p> <p>12 A I don't recall the guidance.</p> <p>13 Q But you know it was really important?</p> <p>14 A Yeah.</p> <p>15 Q Worth like 1.5 to \$2 million a year?</p> <p>16 MR. CHURCHILL: Objection.</p> <p>17 Argumentative.</p> <p>18 A It wasn't just that. The strategy was one part of</p> <p>19 it. The other parts of it were, again, the</p> <p>20 mentorship, the guidance that he provided, so he</p> <p>21 would apply his years of experience to help mentor</p> <p>22 me, to guide me.</p> <p>23 Q Like, can you give me an example of that?</p> <p>24 A Yeah. And he would ask questions about employees,</p> <p>25 so he would say -- he would check in, how are</p>	<p>1 A We would have -- we would have used a bank.</p> <p>2 Q Okay. So that can't be essential; right?</p> <p>3 MR. CHURCHILL: Objection.</p> <p>4 Ambiguous. Misleading.</p> <p>5 A It wasn't just that Reed was providing the</p> <p>6 relationship to the bank, it was the -- it was the</p> <p>7 dynamics in that relationship, the --</p> <p>8 Q Like what did that benefit the company?</p> <p>9 A The right questions to ask, the right</p> <p>10 negotiations, the right positioning, the right</p> <p>11 opportunities to network, the right introductions.</p> <p>12 Q Fair to say these are pretty intangible benefits?</p> <p>13 MR. CHURCHILL: Objection.</p> <p>14 Ambiguous.</p> <p>15 BY MR. PALAY:</p> <p>16 Q Or can you quantify them in any way?</p> <p>17 A Can I quantify those?</p> <p>18 Q Or are they sort of intangible?</p> <p>19 A I'm trying to think of how to quantify a</p> <p>20 relationship.</p> <p>21 Q Can you quantify anything about Reed's value added</p> <p>22 to the company, let's go with 2019 and 2020, the</p> <p>23 years the report are about?</p> <p>24 A Can I quantify anything about that. I think about</p> <p>25 the -- well, the customer. Customer -- the</p>
Page 298	Page 300
<p>1 so-and-so doing or how is this person doing.</p> <p>2 Q How is that essential?</p> <p>3 A Taking care of the health of the organization</p> <p>4 through the people.</p> <p>5 Q By asking questions about them?</p> <p>6 A Yeah.</p> <p>7 Q Okay. Did -- and what did he do when you told him</p> <p>8 the information?</p> <p>9 A He'd ask more questions.</p> <p>10 Q Okay. And that was -- okay.</p> <p>11 A And I would say in addition, there was -- I had</p> <p>12 shared the relationships that he had with banking</p> <p>13 and with tax. Had already shared the customer</p> <p>14 relationships.</p> <p>15 Q What benefits did you get from the relationships</p> <p>16 he had with banks and tax that were essential?</p> <p>17 A Generally speaking, a bank is essential to a</p> <p>18 business for banking reasons.</p> <p>19 Q Would you not have been able to use a bank without</p> <p>20 Reed?</p> <p>21 A We would have had a relationship with a bank</p> <p>22 without Reed, but that was a relationship that</p> <p>23 Reed had made sure that we had.</p> <p>24 Q Okay. But if Reed wasn't there, would you have</p> <p>25 not been -- had a bank to use or --</p>	<p>1 customers that he -- we could even start before</p> <p>2 that. The software doesn't exist without Reed.</p> <p>3 So back in the mid '90s when Reed said we are</p> <p>4 going to -- or declared however he did that that</p> <p>5 we're going to diversify from prepress, there was</p> <p>6 the photography services, there was the printing</p> <p>7 services, and then there was this image database,</p> <p>8 and so that was the reason why we went down this</p> <p>9 path.</p> <p>10 Q Sure. But that happened in the '90s. You know,</p> <p>11 that wasn't in 2019; right?</p> <p>12 A 2019 doesn't exist without that decision and</p> <p>13 that --</p> <p>14 Q So why don't you keep paying Reed today?</p> <p>15 A The eventual buyer, Acquia, I don't know what</p> <p>16 decision they would have made about Reed. But</p> <p>17 Reed is --</p> <p>18 Q Well, if Reed's 2019 annual compensation is based</p> <p>19 on something he did in the '90s, shouldn't he get</p> <p>20 that compensation today?</p> <p>21 MR. CHURCHILL: Objection.</p> <p>22 Mischaracterizes testimony.</p> <p>23 A Yeah, I didn't say that that was the reason for</p> <p>24 his compensation.</p> <p>25 Q Oh, okay. I misunderstood. Why are we talking</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 301	Page 303
<p>1 about the '90s?</p> <p>2 A I was going back to you were asking for a</p> <p>3 quantifiable thing.</p> <p>4 Q That he did like in 2019?</p> <p>5 A That he did. Well, the history is also relevant</p> <p>6 because, again, we wouldn't have existed in this</p> <p>7 capacity without his leadership then.</p> <p>8 And the customer relationships that were</p> <p>9 established and continued for several decades were</p> <p>10 also quantifiable through revenue. And there are</p> <p>11 quantifiable things that would exist in employee</p> <p>12 surveys as it relates to satisfaction and</p> <p>13 engagement that are part of his -- part of how he</p> <p>14 wanted the business to be run.</p> <p>15 Q And the employees, they -- in the surveys, they</p> <p>16 reflected that the employees really valued Reed?</p> <p>17 A This would have been the output of his mentorship</p> <p>18 of me, which is if we want to try to quantify</p> <p>19 would that might be, Reed was a very</p> <p>20 people-centered person, and that was mentorship</p> <p>21 that I valued.</p> <p>22 And I learned what I learned from Reed, and</p> <p>23 when I led the organization, I led it through his</p> <p>24 mentorship and guidance, and that would be</p> <p>25 reflected in employee satisfaction and engagement</p>	<p>1 whatever Reed wanted?</p> <p>2 A To fulfill what Reed wanted.</p> <p>3 Q Okay. And you understood what Reed wanted was to</p> <p>4 buy all of Stacy's shares?</p> <p>5 MR. CHURCHILL: Objection.</p> <p>6 Misstates testimony.</p> <p>7 BY MR. PALAY:</p> <p>8 Q Well, that's what happened; right?</p> <p>9 A Can you restate it?</p> <p>10 Q Okay. Your intention was to do whatever Reed</p> <p>11 wanted; is that accurate?</p> <p>12 A I -- yeah. I reported to Reed, so yes, Reed</p> <p>13 directs and I act.</p> <p>14 Q Okay. And the company did buy all of Stacy's</p> <p>15 shares; correct?</p> <p>16 A The company, yeah, the company bought Reed's --</p> <p>17 Stacy's shares. Yes.</p> <p>18 Q So is it fair to say that what Reed wanted was to</p> <p>19 buy all of Stacy's shares?</p> <p>20 A That was the -- that was the end result, so I</p> <p>21 don't know what Reed wanted.</p> <p>22 Q Did anyone try to -- did anyone want to buy</p> <p>23 Stacy's shares other than Reed that you know of?</p> <p>24 A I don't know.</p> <p>25 Q Okay. And you said you didn't believe that the</p>
Page 302	Page 304
<p>1 surveys. If we want to quantify that, we did</p> <p>2 quantify those things.</p> <p>3 Q Were Reed's services to the company in 2019 more</p> <p>4 important than yours?</p> <p>5 A Were Reed's services in 2019 more important than</p> <p>6 mine? I don't know that.</p> <p>7 Q Well, why did Reed make so much more than you?</p> <p>8 A Reed was the chairman, and the chairman has a</p> <p>9 market rate that chairmans make and --</p> <p>10 Q But you said you never looked into what the market</p> <p>11 rate would be because you didn't even know what</p> <p>12 the size -- you know how valuable the company was</p> <p>13 or how to compare it or anything?</p> <p>14 A I said I casually look at business literature in</p> <p>15 reading of popular business publications, which is</p> <p>16 where I would have gleaned this is.</p> <p>17 Q Can you tell me anything you read that suggested</p> <p>18 that Reed's compensation as chairman was</p> <p>19 reasonable?</p> <p>20 A No.</p> <p>21 Q So we talked a lot about, you know, how we got</p> <p>22 here. We talked about Stacy's redemption, and</p> <p>23 your intention was to help Stacy; is that correct?</p> <p>24 A Reed's intention was to help Stacy.</p> <p>25 Q Okay. What was your intention? Was to do</p>	<p>1 company had any obligation to give Stacy any</p> <p>2 information she didn't ask for; is that accurate?</p> <p>3 A I said that any information that she would have</p> <p>4 requested would have been provided.</p> <p>5 Q Okay. So do you think the company had any</p> <p>6 obligation to provide Stacy information that she</p> <p>7 didn't ask for?</p> <p>8 A I don't know what those obligations would have</p> <p>9 been.</p> <p>10 Q Okay. Sitting here today, you know, the end of</p> <p>11 this long deposition and this lawsuit, is there</p> <p>12 anything that going back to May of 2020 you would</p> <p>13 do differently?</p> <p>14 A Anything going back to May of 2020 that I would do</p> <p>15 differently. No.</p> <p>16 Q Knowing what you know today, you would still help</p> <p>17 buy Stacy's stock at the price that it was</p> <p>18 purchased for?</p> <p>19 A Stacy asked and Reed wanted to help. And that</p> <p>20 agreement was the agreement that all shareholders</p> <p>21 had agreed to with the weighted EBITDA formula,</p> <p>22 and so it was consistent and what was used.</p> <p>23 Q Okay. And that that makes it -- that makes it</p> <p>24 right?</p> <p>25 A That makes it the agreement.</p>



Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 305	Page 307
<p>1 Q Okay. So it's because Stacy agreed that she had</p> <p>2 to be bought at this particular amount?</p> <p>3 A Like me, I agreed to that.</p> <p>4 Q Okay. Would it change anything if Stacy had not</p> <p>5 agreed to be bought out at that amount in the</p> <p>6 shareholder agreement?</p> <p>7 A If she didn't sell, that would have been --</p> <p>8 Q No, no. I'm just saying under the shareholder</p> <p>9 agreement, if Stacy had not agreed to the use of</p> <p>10 the EBITDA formula for her redemption, would that</p> <p>11 change whether you would do anything differently</p> <p>12 about using that formula to buy her out?</p> <p>13 A I don't know what I would have done.</p> <p>14 Q Well, I'm asking you today, you know, knowing what</p> <p>15 you know today.</p> <p>16 A I don't know what I'd have done.</p> <p>17 Q You can't answer that question?</p> <p>18 A Just don't know what I would have done.</p> <p>19 Q Okay. Is there any information that you could</p> <p>20 review or learn that would allow you to answer</p> <p>21 that question?</p> <p>22 A Can we revisit the question again, reframe that.</p> <p>23 Q Yeah. Knowing what you know today, if the -- if</p> <p>24 Stacy had not agreed to the use of the EBITDA</p> <p>25 formula for the purchase of her shares in the</p>	<p>1 A I think what was owed to Stacy was agreed upon by</p> <p>2 Stacy and by other shareholders and it was</p> <p>3 consistent.</p> <p>4 Q When you say agreed upon, when do you -- what are</p> <p>5 you talked about?</p> <p>6 A I'm saying that like my agreement, I had to agree</p> <p>7 to the formula, and I did. And that -- that</p> <p>8 formula was something that Stacy agreed to.</p> <p>9 Q So doesn't the formula say if the company gets</p> <p>10 sold within three years of a buyback using the</p> <p>11 formula, that the shareholder gets 66 percent of</p> <p>12 what they would have gotten had they been a</p> <p>13 shareholder during the buyback -- during the sale</p> <p>14 of the company?</p> <p>15 A I don't know that.</p> <p>16 Q You're relying on -- you keep telling me about</p> <p>17 this formula, but have you ever -- have you read</p> <p>18 it?</p> <p>19 A I read mine.</p> <p>20 Q Well, isn't it one agreement? Isn't that the</p> <p>21 point of a shareholder agreement? You don't have,</p> <p>22 like, your own individual version; right?</p> <p>23 A I didn't think so, but I don't know.</p> <p>24 Q Okay. So does yours say that?</p> <p>25 A I don't know.</p>
Page 306	Page 308
<p>1 shareholder agreement, is there anything that you</p> <p>2 would have done differently?</p> <p>3 A So in this case, Stacy -- Stacy would have said</p> <p>4 no, I don't want follow at that?</p> <p>5 Q Or just she never agreed to it in the first place</p> <p>6 is more what I was thinking.</p> <p>7 A Then it would have been fine.</p> <p>8 Q Okay. So would you have done anything differently</p> <p>9 then?</p> <p>10 A Well, she wouldn't have sold her shares then.</p> <p>11 Q Oh, okay. I was talking about under the</p> <p>12 agreement. I guess let's just say it this way.</p> <p>13 Do you think it's fair that Stacy got \$1.3 million</p> <p>14 for 20 percent of the company in May 2020?</p> <p>15 A I think that what she sold for was consistent with</p> <p>16 the agreements that all shareholders agreed to.</p> <p>17 Q Yeah. That's not what I asked, though. Do you</p> <p>18 think it's fair?</p> <p>19 A Can you tell me what fair is?</p> <p>20 Q Well, why don't you tell me. Do you have any clue</p> <p>21 what fair means?</p> <p>22 A I think of fair as something provided that is --</p> <p>23 that is owed to you.</p> <p>24 Q Yeah. So do you think \$1.3 million is all that</p> <p>25 was owed to Stacy?</p>	<p>1 Q Okay. If that's what the EBITDA formula says in</p> <p>2 the shareholder agreement, is that something that</p> <p>3 Stacy should have gotten?</p> <p>4 A If that's something that the EBITDA formula says</p> <p>5 in the shareholder agreement, then --</p> <p>6 Q If that's something that the shareholder agreement</p> <p>7 in the part where it lists the -- where it</p> <p>8 provides the EBITDA formula, if it says that a</p> <p>9 shareholder redeemed using this formula is</p> <p>10 entitled to 66 percent of what they would have</p> <p>11 received had they been a shareholder at the time</p> <p>12 of a sale of this company within three years of</p> <p>13 their redemption using this formula, is that</p> <p>14 something that Stacy should get?</p> <p>15 A I don't know. I don't -- I don't know the</p> <p>16 language that you're talking about there.</p> <p>17 Q Okay. We can be done.</p> <p>18 THE VIDEOGRAPHER: Anything from</p> <p>19 you guys?</p> <p>20 MR. CHURCHILL: No.</p> <p>21 THE VIDEOGRAPHER: We're going off</p> <p>22 the record. The time is 6:06 p.m. This is</p> <p>23 the end of today's video-recorded testimony.</p> <p>24 Our number of media units used today is six.</p> <p>25 (Adjourning at 6:06 p.m.)</p>

Stacy L. Randall v.  
Reed C. Widen, et al.

Video Deposition of Matthew R. Gonnering

Page 309

1 STATE OF WISCONSIN )

) ss.

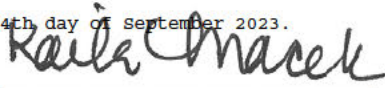
2 COUNTY OF DANE )

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4 I, Kaila M. Macek, RMR, CRR, a Notary Public in  
5 and for the State of Wisconsin, do hereby certify  
6 that the foregoing deposition of MATTHEW R. GONNERING  
7 was taken before me on September 21, 2023, and  
8 reduced to writing by me, a professional court  
9 reporter and disinterested person, approved by all  
10 parties in interest and thereafter converted to  
11 typewriting using computer-aided transcription.

12 I further certify that I am not related to nor  
13 an employee of counsel or any of the parties to the  
14 action, nor am I in any way financially interested in  
15 the outcome of this case.

16 IN WITNESS WHEREOF, I have hereunto set my hand  
17 and affixed my notarial seal of office at Madison,  
18 Wisconsin, this 24th day of September 2023.



Notary Public, State of Wisconsin

My Commission Expires 1/14/2027

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